of paragraph (c)(5)(iii) of this section, if there is a change in the agreement under paragraph (c)(5)(iii) of this section and a demonstration that the agreement, as changed, meets the requirements of paragraph (c)(5)(iii) cannot be made, then the designated representative of the units governed by the plan shall submit a notification to terminate the plan so that the plan will terminate as of January 1 of the calendar year during which the change is made. Where a substitution plan is approved as meeting the requirements of paragraph (c)(5)(iii) of this section, if the requirements of the first sentence of paragraph (e)(1)(iii)(A) of this section are not met during a calendar year, then the designated representative of the units governed by the plan shall submit a notification to terminate the plan so that the plan will terminate as of January 1 of such calendar year.

(C) If the plan is not terminated in accordance with paragraphs (e)(3)(iv)(A) or (B) of this section, the Administrator, on his or her own motion, will terminate the plan and deduct the allowances required to be surrendered under paragraph (e)(3)(ii) of this section.

(D) Where a substitution unit and the Phase I unit designating the substitution unit in an approved substitution plan have a common owner, operator, or designated representative during a year, the plan shall not be terminated under paragraphs (e)(3)(iv)(A), (B), or (C) of this section with regard to the substitution unit if the year is as specified in paragraph (e)(3)(iv)(D)(*1*) or (*2*) of this section and the unit received from the Administrator for the year, under the Partial Settlement in *Environmental Defense Fund* v. *Carol M. Browner*, No. 93–1203 (D.C. Cir. 1993) (signed May 4, 1993), a total number of allowances equal to the unit's baseline multiplied by the lesser of the unit's 1985 actual SO_2 emissions rate or 1985 allowable SO_2 emissions rate.

(*1*) Except as provided in paragraph (e)(3)(iv)(D)(*2*) of this section, paragraph (e)(3)(iv)(D) of this section shall apply to the first year in Phase I for which the unit is and remains an active substitution unit.

(*2*) If the unit has a Group 1 boiler under part 76 of this chapter and is and remains an active substitution unit during 1995, paragraph (e)(3)(iv)(D) of this section shall apply to 1995 and to the second year in Phase I for which the unit is and remains an active substitution unit.

(*3*) If there is a change in the owners, operators, or designated representative of the substitution unit or the Phase I unit during a year under paragraph (e)(3)(iv)(D)(*1*) or (*2*) of this section and, with the change, the units do not have a common owner, operator, or designated representative, then the designated representatives for such units shall submit a notification to terminate the plan so that the plan will terminate as of January 1 of the calendar year during which the change is made. If the plan is not terminated in accordance with the prior sentence, the Administrator, on his or her own motion, will terminate the plan and deduct the allowances required to be surrendered under paragraph (e)(3)(ii) of this section.

[FR Doc. 94–28710 Filed 11–21–94; 8:45 am]
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federal register

Tuesday
November 22, 1994

Part VI

Department of Transportation

Federal Highway Administration
Federal Transit Administration

Axle Weights of Public Transit Buses; Extension of Exclusion Period; Notice

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

Axle Weights of Public Transit Buses; Extension of Exclusion Period

AGENCIES: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Congress directed the Secretary of Transportation to study and provide recommendations to address the matter of public transit buses that exceed Interstate System axle weight limits. The Congress also excluded public transit buses from Interstate System axle weight limits for 2 years (until October 6, 1994) and provided that the Secretary could extend the exclusion for an additional year. The study was transmitted to the Congress on September 20, 1994, but legislation would be required to implement its recommendation to allow higher bus axle weights until lighter buses can be developed and this will require additional time. Therefore, renewing the exclusion for 1 more year will allow public transit buses to continue to operate on the Interstate System at axle weights authorized by each state while a permanent solution is implemented.

DATES: The exclusion of public transit buses from the Interstate System axle weight limits is extended to October 6, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Klimek, Office of Motor Carrier Information Management, at (202) 366–2212, or Mr. Charles Medalen, Office of Chief Counsel, at (202) 366–1354, Federal Highway Administration; Mr. Bart W. Mancini, Office of Engineering Evaluation, at (202) 366–0224, or Mr. Richard Wong, Office of Chief Counsel, at (202) 366–1936, Federal Transit Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Section 341 of the FY 1993 Department of Transportation and Related Agencies Appropriations Act (Pub. L. 102–388, 106 Stat. 1520, at 1552) amended section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914, at 1951) by adding a new paragraph (h). Paragraph (h)(2) required the Secretary to conduct a study of the maximum axle weight limits of "public transit vehicles" on the Interstate System. Paragraph (h)(1) excluded "any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus" from the single- and tandem-axle weight limits imposed on the Interstate System by the second sentence in 23 U.S.C. 127 for 2 years from the effective date of the legislation, October 6, 1992, and authorized the Secretary to renew the exclusion for an additional year.

States that fail to enforce the Interstate System weight limits could be penalized by the loss of their Federal highway funds under 23 U.S.C. 141(c)(2). Before the exclusion became effective, buses were, on occasion, stopped by State enforcement personnel and forced to unload passengers until they were no longer overweight.

The study required by paragraph (h)(2) was transmitted to the Congress on September 20, 1994. However, action to address overweight axles of public transit buses on the Interstate System will require additional time. A 1-year extension will allow public transit buses to continue to operate on the Interstate System without the threat of possible funding sanctions or the removal of passengers while a permanent solution to the problem is implemented.

Therefore, any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus is excluded, until October 6, 1995, from the second sentence of section 23 U.S.C. 127 relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways.

Authority: Sec. 1023, Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102–240, 105 Stat. 1914, at 1951, as amended by sec. 341, Pub. L. 102–388, 106 Stat. 1520, at 1552.

Issued on: November 15, 1994.

Rodney E. Slater,

Federal Highway Administrator.

Issued on: November 15, 1994.

Gordon J. Linton,

Federal Transit Administrator.

[FR Doc. 94–28770 Filed 11–21–94; 8:45 am]

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federal register

Tuesday
November 22, 1994

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Alteration of the Los Angeles, CA, Class B Airspace; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–AWA–13]
RIN 2120–AF38

Proposed Alteration of the Los Angeles, CA, Class B Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the Los Angeles, CA, Class B airspace area. This proposal would lower the ceiling of the Los Angeles Class B airspace area from 12,500 feet mean sea level (MSL) to 10,000 feet MSL; raise the base altitude west of Santa Monica, CA, from 4,000 feet MSL to 7,000 feet MSL to provide for more airspace for uncontrolled traffic to navigate outside of the Los Angeles Class B airspace area; and expand the eastern, southern and southeastern boundaries for additional airspace for the arrival of high performance aircraft. This action would improve aviation traffic flow and enhance safety in the Los Angeles area while accommodating the concerns of airspace users.

DATES: Comments must be received on or before January 23, 1995.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Airspace Docket No. 93–AWA–13, 800 Independence Avenue, SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AWA–13." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will also be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Related Rulemaking Actions

On May 21, 1970, the FAA published Amendment 91–78 to part 91 of the Federal Aviation Regulations (35 FR 7782) which provided for the establishment of Terminal Control Areas (TCA's).

On June 21, 1988, the FAA published a final rule which requires Mode C equipment when operating within 30 nautical miles of any designated TCA primary airport from the surface up to 10,000 feet MSL, except for those aircraft not originally certified with an engine driven electrical system or which have not subsequently been certified with such a system installed (53 FR 23356).

On October 14, 1988, the FAA published a final rule that revised the classification and pilot/equipment requirements for conducting operations in a TCA (53 FR 40318). Specifically, the rule: (a) Established a single-class TCA; (b) requires the pilot in command of a civil aircraft operating within a TCA to hold at least a private pilot certificate, except for a student pilot who has received certain documented training; and (c) eliminated the helicopter exception from the minimum navigational equipment requirement.

On December 17, 1991, the FAA published a final rule on airspace reclassification (56 FR 65655) of those airspace designations described in part 71 of the FAR. As a result of this reclassification, that airspace formerly referred to as the Los Angeles, CA, Terminal Control Area was reclassified to the Los Angeles, CA, Class B airspace, effective September 16, 1993.

Background

The Class B airspace (TCA prior to September 16, 1993) program was developed to reduce the midair collision potential in the congested airspace surrounding airports with high density air traffic by providing an area in which all aircraft will be subject to certain operating rules and equipment requirements. The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier, military or another GA aircraft. The basic causal factor common to these conflicts was the mix of uncontrolled aircraft operating under visual flight rules (VFR) and controlled aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft. To date, the FAA has established a total of 29 Class B airspace area designations. The FAA is proposing to take action to modify or implement additional Class B airspace areas to provide greater protection of air

traffic in the airspace regions most commonly used by passenger-carrying aircraft.

Class B airspace areas are published in Paragraph 3000 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994. The Class B airspace area listed in this document would be published subsequently in the Order.

The standard configuration of a Class B airspace area consists of 3 concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles respectively. The vertical limits of the Class B airspace area should normally not exceed 10,000 feet MSL, with the floor established at the surface in the inner area and at levels appropriate for operations in the outer areas. Variations of these criteria may be authorized contingent upon terrain, adjacent regulatory airspace, and other factors unique to the area.

Pre-NPRM Public Input

As announced in the **Federal Register** on April 22, 1992, pre-NPRM airspace meetings were held on June 23, 25, 30 and July 1, 1992, at Brentwood, San Diego, Los Alamitos, and Walnut, California, respectively, to encourage the public and airspace users to participate in developing the design for the Los Angeles Class B airspace area modification 57 FR 14670. Comments on this proposed modification were provided by private citizens, local government agencies, user groups, and local airport authorities. These comments were considered in the proposed modification of the Los Angeles Class B airspace area.

Pilot groups were concerned more about the aviation aspects of the proposal, while some homeowners were more concerned with the non-aviation aspects. Lowering the ceiling of the proposed airspace from 12,500 to 10,000 feet MSL generated positive response from most pilots, because pilots would be able to overfly the Class B airspace area and descend south of the Class B airspace area while conforming to the mode C requirement. Some homeowners viewed this modification negatively. Current flight tracks bring aircraft over their homes, and lowering the ceiling of the proposed airspace would bring these aircraft in closer proximity to their homes. It should be noted that this proposed action does not propose a change to these flight tracks, as they now exist.

Both groups had positive comments on raising the floor in the Malibu area to provide additional VFR operations. Expansion of the Class B airspace boundaries generated conflicting comments. Homeowners saw the regulatory airspace as growing for no reason, while pilots viewed the growth of regulatory airspace as providing additional controlled airspace for high performance aircraft from the east, southeast and south. Other comments are discussed below in the "Proposal" section.

The Proposal

The FAA proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the existing Los Angeles Class B airspace area, based on safety and operational needs. The FAA's responsibility is to manage efficiently and safely the airspace surrounding the Los Angeles area. This proposal would lower the ceiling of the Los Angeles Class B airspace area from 12,500 feet mean seal level (MSL) to 10,000 feet MSL; raise the base altitude west of Santa Monica, CA, from 4,000 feet MSL to 7,000 feet MSL to provide more airspace for uncontrolled traffic to navigate outside of the Los Angeles Class B airspace area; and expand the eastern, southern and southeastern boundaries for additional controlled airspace for the high performance aircraft. The proposed alteration is depicted in the attached chart.

The following proposed modifications of the Los Angeles Class B airspace area are as follows:

Area A. That airspace extending from the surface to 10,000 feet MSL bounded by a line beginning at lat. 34°00'08"N., long. 118°45'01"W.; to lat. 34°00'33"N., long. 118°32'56"W.; to lat. 33°57'42"N., long. 118°27'23"W. (Ballona Creek/Pacific Ocean); to lat. 33°57'42"N., long. 118°22'10"W. (Manchester/405 Fwy); to lat. 33°58'54"N., long. 118°16'41"W. (Broadway/64th St.); to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to lat. 33°55'51"N., long. 118°26'05"W. (Imperial Hwy/Pacific Ocean); to lat. 33°45'34"N., long. 118°27'01"W. (LIMBO intersection); to lat. 35°45'14"N. long. 118°32'29"W. (INISH intersection); to the point of beginning.

This change is necessary because of the concentration of high performance aircraft operating very close to the surface as they arrive and depart Los Angeles International (LAX), the Class B airspace primary airport. The proposed modification, which incorporates the suggestion made by the Southern California Airspace User's Group to relocate the boundary of the area, would reduce the area size to the north of Los Angeles, thereby enabling aircraft utilizing the VFR Special Flight Rules Area to enter the traffic pattern sooner for the Santa Monica Airport. Additionally, this would allow aircraft at Santa Monica Airport to enter the traffic pattern at a more reasonable altitude. General aviation user groups actively supported this modification with the assurance that the VFR Special Flight Rules Area would remain available for transition through the Class B airspace.

The number of turboprop aircraft operating at LAX has increased. The proposed modification would accommodate the requirement to contain turboprop operations within the Class B airspace area, segregating them from jet operations. Overwater portions of this area, used by VFR traffic for banner tows and low level sightseeing, would not be adversely affected by this change.

Area B. That airspace extending upward from 1,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°58'54"N., long. 118°16'41"W. (Broadway/64th St.); to lat. 34°00'01"N., long. 118°07'58"W. (Garfield/Washington Blvd); to lat. 33°56'10"N., long. 118°07'21"W. (Stonewood Center); thence to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to the point of beginning.

The proposed Area B is designed to allow more airspace with less restrictions for use by emergency support aircraft.

Area C. That airspace extending upward from 2,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°06'00"N., long. 118°14'27"W. (Railroad Freight Yard); to lat. 34°06'00"N., long. 118°11'23"W. (Ernest E. Debs Regional Park); to lat. 34°02'03"N., long. 118°03'39"W. (Legg Lake); to lat. 33°58'40"N., long. 118°01'49"W. (Whittier College); to lat. 33°54'10"N., long. 118°01'49"W.; to lat. 33°53'35"N., long. 118°10'55"W. (Dominguez High School); to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to lat. 33°56'10"N., long. 118°07'21"W. (Stonewood Center); to lat. 34°00'01"N., long. 118°07'58"W. (Garfield/Washington Blvd); to lat. 33°58'54"N., long. 118°16'41"W. (Broadway/64th St.); to lat. 33°57'42"N., long. 118°22'10"W. (Manchester/405 Fwy); to lat. 33°00'20"N., long. 118°23'05"W. (West Los Angeles College); to lat. 34°02'49"N., long. 118°21'48"W.; to the point of beginning.

The proposed modification would ease the restrictions on aircraft transiting north from Santa Monica and make navigation between the Los Angeles Class B airspace area and the Burbank-Glendale-Pasadena Airport, CA, Class C airspace area less difficult.

Reducing this area of the Class B airspace area would increase the usable airspace for GA and emergency response aircraft as well as facilitate navigation clear of the Class B airspace area.

Area D. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°02'03"N., long. 118°03'39"W. (Legg Lake); to lat. 34°00'45"N., long. 117°54'03"W.; to lat. 33°57'40"N., long. 117°53'35"W.; to lat. 33°54'26"N., long. 117°54'21"W. (Brea Municipal Golf Course); to lat. 33°54'10"N., long. 118°01'49"W.; to lat. 33°58'40"N., long. 118°01'49"W. (Whittier College); to the point of beginning.

The proposed change would move the northern boundary of this area south and remove V–186, below 8,000 feet MSL, from the Class B airspace. This will make navigation simpler and reduce the probability of an inadvertent Class B airspace violation. Currently, Area D contains a portion of V–186 from 4,000 feet to 12,500 feet MSL and is located 20 to 25 miles east of Los Angeles. V–186 is a primary route used for VFR navigation around the Los Angeles Class B airspace. To remain clear of the Class B airspace, VFR aircraft must navigate north of this airway. Navigation in this area is difficult for VFR traffic because of the rising terrain.

Areas E and F. *Area E* is that airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°02'03"N., long. 118°03'39"W. (Legg Lake); to lat. 34°02'50"N., long. 117°50'43"W. (Mt. San Antonio College); to lat. 33°59'28"N., long. 117°50'42"W. (SUZZI Intersection); to lat. 33°54'34"N., long. 117°52'10"W. (Imperial Golf Course); to lat. 33°54'26"N., long. 117°54'21"W. (Brea Municipal Golf Course); to lat. 33°57'40"N., long. 117°53'35"W.; to lat. 34°00'45"N., long. 117°54'03"W.; to the point of beginning. *Area F* is that airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°02'50"N., long. 117°50'43"W. (Mt. San Antonio College); to lat. 34°03'15"N., long. 117°47'00"W. (General Dynamics); to lat. 33°59'55"N., long. 117°45'55"W. (ARNES Intersection/Water Tower); to lat. 33°54'39"N., long. 117°46'57"W.; to lat. 33°54'34"N., long. 117°52'10"W. (Imperial Golf Course); to lat. 33°59'28"N., long. 117°50'42"W. SUZZI Intersection); to the point of beginning.

With regard to Areas E and F, arrival traffic to Los Angeles from the east descends on the CIVET Southern California Terminal Airspace Realignment (STAR) arrival profile. This allows aircraft to descend on the glideslope, approximately 50 miles from the airport. This is the busiest route in the Los Angeles Basin. Traffic on this route must descend through an area surrounded by numerous VFR flyways with a mix of IFR traffic arriving, departing, and overflying the various airports in the Los Angeles Basin. Because of the analysis of near midair collision reports (NMAC), concern exists regarding the airspace between the outer boundary of the current Class B airspace and the Ontario Class C airspace, approximately 35 miles east of Los Angeles. In this area, high performance aircraft are descending out of 10,000 feet MSL, and VFR aircraft are navigating around the Class B airspace. This proposal would provide additional airspace for large jet aircraft within the Class B airspace area. Terrain features would be used to provide an easily discernible boundary to assist VFR aircraft in avoiding the Class B airspace. The extension of the Class B airspace area between 25 nautical miles (NM) and 35 NM east provides additional airspace for high performance aircraft in the Class B airspace area and provides better separation from other aircraft operating near the Class B airspace.

Areas G, H, I, and J. *Area G* is that airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°55'51"N., long. 118°26'05"W. (Imperial Hwy/Pacific Ocean); to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to lat. 33°53'35"N., long. 118°10'55"W. (Dominguez High School); to lat. 33°54'10"N., long. 118°01'49"W.; to lat. 33°47'00"N., long. 118°03'17"W. (Seal Beach VORTAC/Los Alamitos Armed Forces Reserve Center); to lat. 33°46'28"N., long. 118°11'54"W. (Long Beach VA Hospital); to lat. 33°45'34"N., long. 118°27'01"W. (LIMBO Intersection); to the point of beginning. *Area H* is that airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°54'10"N., long. 118°01'49"W.; to lat. 33°54'26"N., long. 117°54'21"W. (Brea Municipal Golf Course); to lat. 33°47'23"N., long. 117°57'40"W. (Garden Grove Mall); to lat. 33°47'00"N., long. 118°03'17"W. (Seal Beach VORTAC/Los Alamitos AFRC); to point of beginning. *Area I* is that airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°47'00"N., long. 118°03'17"W. (Seal Beach VORTAC/Los Alamitos AFRC); to lat. 33°47'23"N., long. 117°57'40"W. (Garden Grove Mall); to lat. 33°28'56"N., long. 117°51'49"W.; to lat. 33°26'40"N., long. 118°00'54"W.; to lat. 33°34'42"N., long. 118°07'48"W.; to lat. 33°46'28"N., long. 118°11'54"W. (Long Beach VA Hospital); to the point of beginning. *Area J* is that airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°45'34"N., long. 118°27'01"W. (LIMBO Intersection); to lat. 33°46'28"N., long. 118°11'54"W. (Long Beach VA Hospital); to lat. 33°34'42"N., long. 118°07'48"W.; to lat. 33°35'58"N., long. 118°25'39"W.; to the point of beginning.

With regard to Areas G, H, I, and J, major airspace modifications are proposed because of the implementation of the STAR (Southern California Terminal Airspace Realignment) plan and the resultant increase in the traffic routed inbound to LAX from the south. The Coast Terminal Radar Approach Control Facility (TRACON) sequences traffic from Asia and the Pacific arriving over the Santa Catalina Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) with arrival traffic from Mexico, South America, and San Diego routed over the Seal Beach VORTAC (SLI). It is important that this traffic descend in a timely manner, as delays could affect the eastbound departure traffic. To facilitate this mix of traffic, the proposed Areas G, H, and I are designed to facilitate both the arrival and departure traffic without interfering with existing VFR routes. Area G would allow aircraft arriving from the south to remain within the Class B airspace as they descend to the final approach course. Depicted VFR flyways at 3,500 and 4,500 feet MSL will remain unaffected. Area H would allow VFR aircraft to climb eastbound, east of the Seal Beach VORTAC, while enabling Los Angeles approach to utilize altitudes compatible with the final approach course. Area I has been proposed using geographical coordinates and terrain features to facilitate the efficient use of this airspace. Area J would allow VFR flight at 7,500 feet MSL which user input indicated was a commonly used altitude for VFR flight to and from Santa Catalina. This proposed area would not eliminate established VFR transition routes.

Area K. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°45'34"N., long. 118°27'01"W. (LIMBO Intersection); to lat. 33°35'58"N., long.

118°25'39"W.; to lat. 33°32'52"N., long. 118°36'54"W., to lat. 33°44'27"N., long. 118°42'23"W.; to lat. 33°45'14"N., long. 118°32'29"W. (INISH Intersection); to the point of beginning.

Located entirely offshore, Area K is designed to accommodate high performance traffic departing LAX, via the LAXX ONE Departure, as well as arrival traffic when Los Angeles is in an east flow configuration. This area is not utilized by VFR aircraft on a routine basis; however, based on the recommendations of local pilots, the area was designed to accommodate GA operations offshore south of Palos Verdes, CA.

Area L. That airspace extending upward from 2,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°45'14"N., long. 118°32'29"W. (INISH Intersection); to lat. 33°44'27"N., long. 118°42'23"W.; to lat. 33°59'44"N., long. 118°55'22"W.; to lat. 34°00'08"N., long. 118°45'01"W.; to the point of beginning.

The proposed Area L aligns with V–27. This would allow navigation along V–27, while in the Class B airspace area.

Area M. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°06'00"N., long. 118°56'33"W.; to lat. 34°06'00"N., long. 118°47'06"W.; to lat. 34°00'08"N., long. 118°45'01"W.; to lat. 33°59'44"N., long. 118°55'22"W.; to the point of beginning.

The proposed Area M would contain high performance aircraft arriving from the north, when LAX is in an east traffic flow configuration. To mitigate the impact of this area on VFR traffic and to prevent adverse effects, the floor of the Class B airspace area in this area is proposed to be 7,000 feet MSL. This would provide additional airspace for VFR operations.

Area N. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°06'00"N., long. 118°47'06"W.; to lat. 34°06'00"N., long. 118°14'27"W. (Railroad Freight Yard); to lat. 34°02'49"N., long. 118°21'48"W.; to lat. 33°00'20"N., long. 118°23'05"W. (West Los Angeles College); to lat. 33°57'42"N., long. 118°22'10"W. (Manchester/405 Hwy); to lat. 33°57'42"N., long. 118°27'23"W. (Ballona Creek/Pacific Ocean); to lat. 34°00'33"N., long. 118°32'56"W.; to lat. 34°00'08"N., long. 118°45'01"W.; to the point of beginning.

The proposed Area N modification would allow for more airspace for aircraft departing LAX and would allow aircraft, northbound over Santa Monica, to execute an earlier turn westbound. Additionally, this change would benefit VFR operations by providing additional airspace for uncontrolled VFR aircraft to overfly Point Dume, CA.

Regulatory Evaluation Summary

The FAA has determined that this rulemaking is not a "significant regulatory action" as defined by Executive Order 12866, and therefore no Regulatory Impact Analysis is required. Nevertheless, in accordance with the Department of Transportation policies and procedures, the FAA has evaluated the anticipated costs and benefits, which are summarized below. For more detailed economic information, see the full regulatory evaluation contained in the docket.

Benefit-Cost Analysis

The proposal would improve aviation traffic flow and enhance aviation safety by altering Class B airspace in and around LAX while accommodating the legitimate concerns of airspace users.

Costs

The FAA has determined that there would be little or no costs associated with implementation of the proposed modification to the LAX Class B airspace area to either the agency or aircraft operators. The determination for each potential cost is discussed below.

The proposed rule would not impose any additional administrative costs on the FAA for either personnel or equipment. The additional operations workload generated by the proposed rule would be absorbed by current personnel and equipment resources which are already in place. The cost of revising aeronautical charts to reflect the change of the airspace would not add to the normal requirement of routine and periodic updating of the charts.

Aircraft operating in the vicinity of the proposed expanded Los Angeles Class B airspace area should already have two-way radio communications capability because the proposed expanded LAX Class B airspace area is surrounded by Class C and D airspace areas. Thus, little if any, additional communication equipment should be required by this proposal. To minimize any radio installation costs that may occur, the FAA would provide cutouts along the floor of the proposed expanded Class B airspace area. In addition, procedural agreements between ATC and affected satellite airports could be used to avoid imposing radio installation costs on operators at these airports. Additionally, the cost to pilots who avoid the Los Angeles Class B airspace area should not increase significantly. Only small deviations from the current flight paths would be required to avoid the proposed expanded Los Angeles Class B airspace area.

Ordinarily, aircraft operating in and above the proposed expanded LAX Class B airspace area would be required to have Mode C transponders as a result of the Mode C rule. However, all of the airspace that would be included in the proposed expanded Class B airspace area lies entirely within the Los Angeles Mode C Veil centered around LAX. Therefore, the FAA contends that all aircraft operating in or above the proposed expanded LAX Class B airspace area already have Mode C transponders.

Benefits

The proposed rule is expected to generate benefits primarily in the form of improved traffic flow while enhancing safety. Enhancements to safety come in the lowered risk of midair collisions (despite the rise in traffic density) due to the increased ATC control of the modified airspace.

This proposed rule would benefit GA aircraft operators by reducing the size of the various subareas of the Class B airspace area, thus increasing usable airspace for GA aircraft. Additionally, it would simplify the airspace and reduce possible pilot confusion. Also, areas B and C would be reduced to allow more airspace with less restrictions for emergency response aircraft.

In view of the minimal cost of compliance versus enhancements to aviation safety and efficiency, the FAA has determined that the proposed rule is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review proposed rules which may have a significant economic impact on a substantial number of small entities. The small entities which could be potentially affected by the implementation of this proposed rule are unscheduled operators of aircraft for hire owning nine or fewer aircraft.

Only those unscheduled aircraft operators without the capability to operate under IFR conditions would be potentially impacted by the proposed rule. The FAA believes that all of the potentially impacted unscheduled aircraft operators are already equipped to operate under IFR conditions. This is because such operators fly regularly in

airports where radar approach control services have been established. Therefore, the FAA believes this proposed rule would have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The proposed rule would neither have an effect on the sale of foreign aviation products or services in the United States, nor would it have an effect on the sale of United States products or services in foreign countries. The proposed rule would neither impose costs on aircraft operators nor aircraft manufacturers (United States or foreign).

Federalism Implications

This proposed rule would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Analysis

The procedures implemented by this rule have been determined to not significantly affect the quality of the human environment. Pursuant to the Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), this action is categorically excluded per Appendix 3, paragraph 4e(2).

Paperwork Reduction Act

This proposed rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations (JAR)

The FAA has determined that this proposal, if adopted, would not conflict with any international agreements of the United States.

Conclusion

For reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a "significant regulatory action" under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is not considered significant under Order DOT 2100.5, Policies and Procedures for Simplification, Analysis and Review of Regulations. A final regulatory evaluation of the proposed regulation, including a final Regulatory Flexibility Determination and International Trade Impact Analysis has been placed in the docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT.

List of Subjects in 14 CFR Part 71

Airspace, Federal Aviation Administration, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 3000—Subpart B—Class B Airspace

* * * * *

AWP CA B Los Angeles, CA [Revised]
Los Angeles International Airport (Primary Airport)
(lat. 33°56'33"N., long. 118°24'29"W.)

Boundaries.

Area A. That airspace extending upward from the surface to 10,000 feet MSL bounded by a line beginning at lat. 34°00'08"N., long. 118°45'01"W.; to lat. 34°00'33"N., long. 118°32'56"W.; to lat. 33°57'42"N., long. 118°27'23"W. (Ballona Creek/Pacific Ocean); to lat. 33°57'42"N., long. 118°22'10"W. (Manchester/405 Fwy); to lat. 33°58'54"N., long. 118°16'41"W. (Broadway/64th St.); to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to lat. 33°55'51"N., long. 118°26'05"W. (Imperial Hwy/Pacific Ocean); to lat. 33°45'34"N., long. 118°27'01"W. (LIMBO intersection); to lat. 33°45'14"N., long. 118°32'29"W. (INISH intersection); to the point of beginning.

Area B. That airspace extending upward from 1,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°58'54"N., long. 118°16'41"W. (Broadway/64th St.); to lat. 34°00'01"N., long. 118°07'58"W. (Garfield/Washington Blvd); to lat. 33°56'10"N., long. 118°07'21"W. (Stonewood Center); thence to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to the point of beginning.

Area C. That airspace extending upward from 2,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°06'00"N., long. 118°14'27"W. (Railroad Freight Yard); to lat. 34°06'00"N., long. 118°11'23"W. (Ernest E. Debs Regional Park); to lat. 34°02'03"N., long. 118°03'39"W. (Legg Lake); to lat. 33°58'40"N., long. 118°01'49"W. (Whittier College); to lat. 33°54'10"N., long. 118°01'49"W.; to lat. 33°53'35"N., long. 118°10'55"W. (Dominguez High School); to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to lat. 33°56'10"N., long. 118°07'21"W. (Stonewood Center); to lat. 34°00'01"N., long. 118°07'58"W. (Garfield Washington Blvd); to lat. 33°58'54"N., long. 118°16'41"W. (Broadway/64th St.); to lat. 33°57'42"N., long. 118°22'10"W. (Manchester/405 Fwy); to lat. 33°00'20"N., long. 118°23'05"W. (West Los Angeles College); to lat. 34°02'49"N., long. 118°21'48"W.; to the point of beginning.

Area D. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°02'03"N., long 118°03'39"W. (Legg Lake); to lat. 34°00'45"N., long. 117°54'03"W.; to lat. 33°57'40"N., long. 117°53'35"W.; to lat. 33°54'26"N., long. 117°54'21"W. (Brea Municipal Golf Course); to lat. 33°54'10"N., long. 118°01'49"W.; to lat. 33°58'40"N., long. 118°01'49"W. (Whittier College); to the point of beginning.

Area E. That airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°02'03"N., long. 118°03'39"W. (Legg Lake); to lat. 34°02'50"N., long. 117°50'43"W. (Mt. San Antonio College); to lat. 33°59'28"N., long. 117°50'42"W. (SUZZI Intersection); to lat. 33°54'34"N., long. 117°52'10"W. (Imperial Golf Course); to lat. 33°54'26"N., long. 117°54'21"W. (Brea Municipal Golf Course); to lat. 33°57'40"N., long. 117°53'35"W., to lat. 34°00'45"N., long. 117°54'03"W.; to the point of beginning.

Area F. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°02'50"N., long. 117°50'43"W. (Mt. San Antonio College); to lat. 34°03'15"N., long. 117°47'00"W. (General Dynamics); to lat. 33°59'55"N., long. 117°45'55"W. (ARNES Intersection/Water Tower); to lat. 33°54'39"N., long. 117°46'57"W.; to lat. 33°54'34"N., long. 117°52'10"W. (Imperial Golf Course); to lat. 33°59'28"N., long. 117°50'42"W. (SUZZI Intersection); to the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°55'51"N., long 118°26'05"W. (Imperial

Hwy/Pacific Ocean); to lat. 33°55'52"N., long. 118°16'43"W. (Broadway/Imperial Hwy); to lat. 33°53'35"N., long. 118°10'55"W. (Dominguez High School); to lat. 33°54'10"N., long 118°01'49"W.; to lat. 33°47'00"N., long. 118°03'17"W. (Seal Beach VORTAC/Los Alamitos Armed Forces Reserve Center); to lat. 33°46'28"N., long. 118°11'54"W. (Long Beach VA Hospital); to lat. 33°45'34"N., long. 118°27'01"W. (LIMBO Intersection); to the point of beginning.

Area H. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°54'10"N., long. 118°01'49"W.; to lat. 33°54'26"N., long. 117°54'22"W. (Brea Municipal Golf Course); to lat. 33°47'23"N., long. 117°57'40"W. (Garden Grove Mall); to lat. 33°47'00"N., long. 118°03'17"W. (Seal Beach VORTAC/Los Alamitos AFRC); to point of beginning.

Area I. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°47'00"N., long. 118°03'17"W. (Seal Beach VORTAC/Los Alamitos AFRC); to lat. 33°47'23"., long. 117°57'40"W. (Garden Grove Mall); to lat. 33°28 '56"N., long. 117°51'49"W.; to lat. 33°26'40"N., long. 118°00'54"W.; to lat. 33°34'42"., long. 118°07'48"W.; to lat. 33°46'28"N., long. 118°11'54"W. (Long Beach VA Hospital); to the point of beginning.

Area J. That airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°45'34"N., long. 118°27'01"W. (LIMBO Intersection); to lat. 33°46'28"N., long. 118°11'54"W. (Long Beach VA Hospital); to lat. 33°34'42"N. 118°07'48"W.; to lat. 33°35'58"N., Long. 118°25'39"W.; to the point of beginning.

Area K. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 33°45'34"N., long. 118°27'01"W. (LIMBO Intersection); to lat. 33°35'58"N., long. 118°25'39"W.; to lat. 33°32'52"N., long. 118°36'54"W.; to lat. 33°44'27"N., long. 118°42'23"W.; to lat. 33°45'14"N., long. 118°32'29"W. (INISH Intersection); to the point of beginning.

Area L. That airspace extending upward from 2,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat 33°45'14"N., long. 118°32'29"W. (INISH Intersection); to lat. 33°44'27"N., long. 118°42'23"W.; to lat. 33°59'44"N., long. 118°55'22"W.; to lat. 34°00'08"N., long. 118°45'01"W.; to the point of beginning.

Area M. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°06'00"N., long. 118°56'33"W,; to lat. 34°06'00"N., long. 118°47'06"W.; to lat. 34°00'08"N., long. 118°45'01"W.; to lat. 33°59'44"N., long. 118°55'22"W.; to the point of beginning.

Area N. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 34°06'00"N., long. 118°47'06"W.; to lat. 34°06'00"N., long. 118°14'27"W. (Railroad Freight Yard); to lat. 34°02'49"N., long. 118°21'48"W.; to lat. 33°00'20"N., long. 118°23'05"W. (West Los Angeles College); to lat. 33°57'42"N., long. 118°22'10"W. (Manchester/405 Hwy); to lat. 33°57'42"N., long. 118°27'23"W. (Ballona Creek/ Pacific Ocean); to lat. 34°00'33"N., long. 118°32'56"W.; to lat. 34°00'08"N., long. 118°45'01"W.; to the point of beginning.

* * * * *

Issued in Washington, DC, on November 8, 1994.

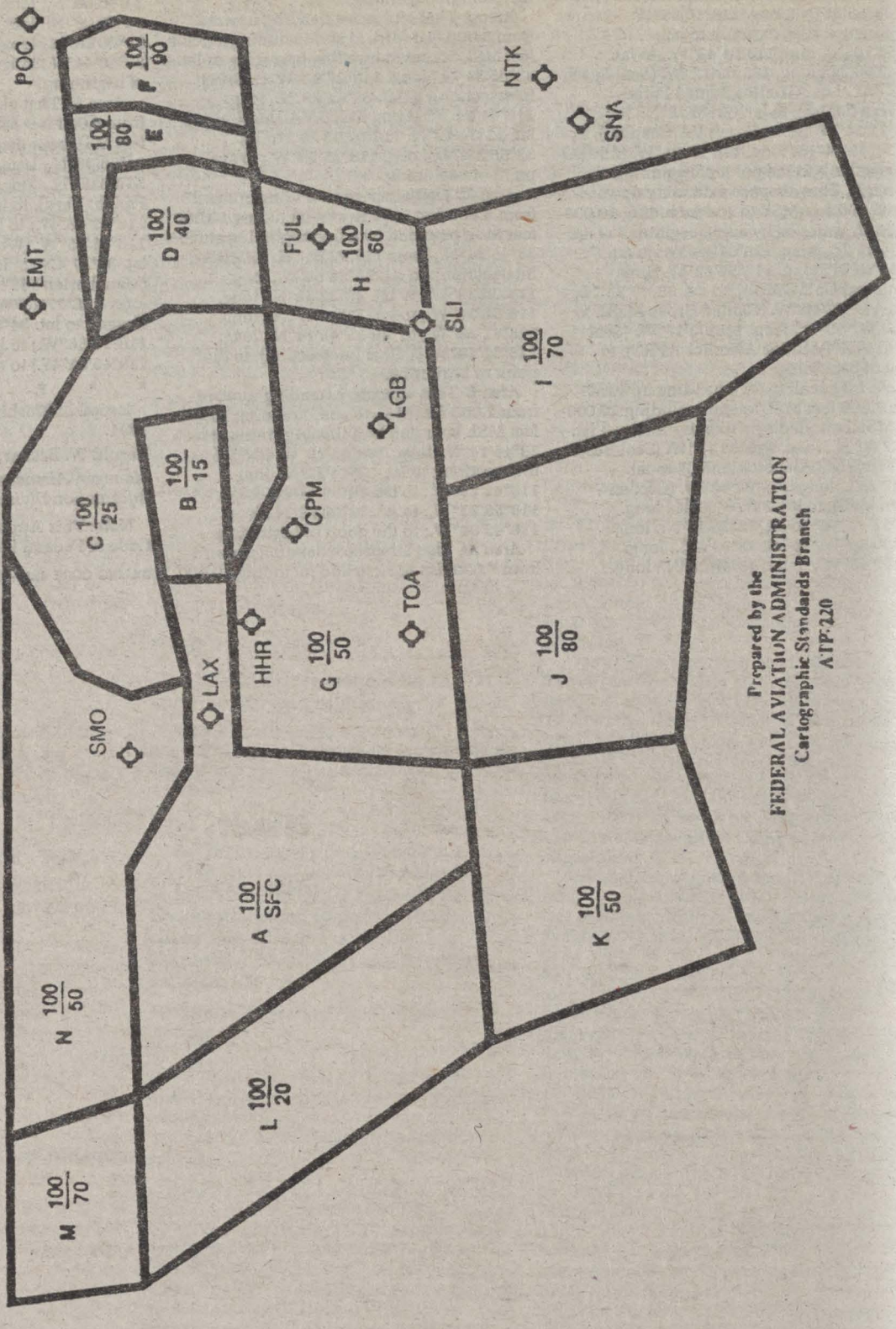
Herold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

Note: This Appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4910-13-M

Appendix—Los Angeles International Airport, Class B Airspace



[FR Doc. 94-28314 Filed 11-21-94; 8:45 am]

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federal register

Tuesday
November 22, 1994

Part VIII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Establishment of a Nonessential Experimental Population of Gray Wolves in Yellowstone National Park in Wyoming, Idaho, Montana, Central Idaho and Southwestern Montana; Final Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC86

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Gray Wolves in Yellowstone National Park in Wyoming, Idaho, and Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) will reintroduce the gray wolf (*Canis lupus*), an endangered species, into Yellowstone National Park, which is located in Wyoming, Idaho, and Montana. These wolves will be classified as nonessential experimental wolves according to section 10(j) of the Endangered Species Act of 1973 (Act), as amended. Gray wolf populations have been extirpated from most of the Western United States. They presently occur in a small population in extreme northwestern Montana, and as incidental occurrences in Idaho, Wyoming, and Washington due to wolves dispersing from populations in Montana and Canada. This reintroduction plan is to reestablish a viable wolf population in the Yellowstone area, one of three wolf recovery areas identified in the Northern Rocky Mountain Wolf Recovery Plan. Potential effects of this final rule were evaluated in an Environmental Impact Statement (EIS) completed in May 1994. This gray wolf reintroduction does not conflict with existing or anticipated Federal agency actions or traditional public uses of park lands, wilderness areas, or surrounding lands.

EFFECTIVE DATE: November 18, 1994.

ADDRESSES: Comments or other information may be sent to Gray Wolf Reintroduction, U.S. Fish and Wildlife Service, P.O. Box 8017, Helena, Montana 59601. The complete file for this final rule is available for inspection, by appointment, during normal business hours at 100 North Park, Suite 320, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Bangs, at the above address, or telephone (406) 449–5202.

SUPPLEMENTARY INFORMATION:

Background

1. *Legal:* The Endangered Species Act Amendments of 1982, Pub. L. 97–304, made significant changes to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*, including the creation of section 10(j), which provides for the designation of specific animals as "experimental." Under previous authorities in the Act, the U.S. Fish and Wildlife Service (Service) was permitted to reintroduce a listed species into unoccupied portions of its historic range for conservation and recovery purposes. However, local opposition to reintroduction efforts from certain parties concerned about potential restrictions, and prohibitions on Federal and private activities contained in sections 7 and 9 of the Act, reduced the utility of reintroduction as a management tool.

Under section 10(j), a listed species reintroduced outside of its current range, but within its historic range, may be designated, at the discretion of the Secretary of the Interior (Secretary), as "experimental." This designation increases the Service's flexibility and discretion in managing reintroduced endangered species because such experimental animals may be treated as a threatened species. The Act requires that animals used to form an experimental population be separated geographically from nonexperimental populations of the same species.

Additional management flexibility is possible if the experimental animals are found to be "nonessential" to the continued existence of the species in question. Nonessential experimental animals located outside national wildlife refuges or national park lands are treated for purposes of section 7 of the Act, as if they were only proposed for listing. Consequently, only two provisions of section 7 would apply to animals located outside of national wildlife refuges and national parks—section 7(a)(1) and section 7(a)(4). Section 7(a)(1) requires all Federal agencies to establish conservation programs for the particular species. Utilization of Federal public lands, including national parks and national forests, is consistent with the legal responsibility of these agencies to sustain the native wildlife resources of the United States and to use their authorities to further the purposes of the Act by carrying out conservation programs for endangered and threatened species. Section 7(a)(4) requires all Federal agencies to informally confer with the Service on actions that will likely jeopardize the continued existence of the proposed to be listed as threatened or endangered species. The results of a conference are advisory in nature, and agencies are not required to refrain from committing resources to projects as a result of a conference. In addition, section 10(j) of the Act states that nonessential experimental animals are not subject to the formal consultation of the Act unless they occur on land designated as a national wildlife refuge or national park. Activities undertaken on private lands are not affected by section 7 of the Act unless they are funded, authorized, or carried out by a Federal agency.

Specimens used to establish an experimental population may be removed from a source or donor population, provided their removal is not likely to jeopardize the continued existence of the species, and appropriate permits have been issued in accordance with 50 CFR 17.22. Gray wolves for the reintroduction will be obtained from healthy Canadian wolf populations with permission from the Canadian and Provincial governments. Gray wolves are common in western Canada (tens of thousands) and Alaska (about 7,000). No adverse biological impact is expected from the removal of about 150 wolves from the Canadian population. Consequently, the Service finds that wolves to be used in the reintroduction effort meet the definition of "non-essential" (50 CFR 17.80(b)) because the loss of the reintroduced wolves is not likely to appreciably reduce the likelihood of survival of the species in the wild.

In 1967, the timber wolf was listed as a subspecies (*Canis lupus lycaon*) as endangered (32 FR 4001), and in 1973 the northern Rocky Mountain subspecies, as then understood, (*C. l. irremotus*) was also listed as endangered, as was the Texas subspecies (*C. l. monstrabilis*) (38 FR 14678). In 1978, the legal status of the gray wolf in North America was clarified by listing the Minnesota wolf population as threatened and other members of the species south of Canada were listed as endangered, without referring to subspecies (43 FR 9607).

2. Biological: This final rule deals with the gray wolf (*Canis lupus*), an endangered species of carnivore that was extirpated from the western portion of the conterminous United States by about 1930. The gray wolf is native to most of North America north of Mexico City, except for the southeastern United States, where a similar species, the red wolf (*Canis rufus*), is found. The gray wolf occupied nearly every area in North America that supported populations of hoofed mammals (ungulates), its major food source.

Twenty-four distinct subspecies of gray wolf had been recognized in North America. Recently, however, taxonomists have suggested that there

are five or fewer subspecies or group types of gray wolf in North America and that the wolf type that once occupied the northern Rocky Mountains of the United States was more widely distributed than was previously believed.

The gray wolf occurred historically in the northern Rocky Mountains, including mountainous portions of Wyoming, Montana, and Idaho. The drastic reduction in the distribution and abundance of this species in North America was directly related to human activities, such as the elimination of native ungulates, conversion of wildland into agricultural lands, and extensive predator control efforts by private, State, and Federal agencies. The natural history of wolves and their ecological role was poorly understood during the period of their eradication in the conterminous United States. As with other large predators, wolves were considered a nuisance and threat to humans. Today, the gray wolf's role as an important and necessary part of natural ecosystems is better understood and appreciated.

For 50 years prior to 1986, no detection of wolf reproduction was found in the Rocky Mountain portion of the United States. However in 1986, a wolf den was discovered near the Canadian border in Glacier National Park. This find was presumably due to the southern expansion of the Canadian wolf population. The Glacier National Park wolf population has steadily grown to about 65 wolves and now exists throughout northwestern Montana.

Reproducing wolf populations are not known to occur in Idaho or Wyoming. Wolves have occasionally been sighted in these States, but do not constitute a population as defined by scientific experts (Service 1994). Historical reports suggest that wolves may have produced young in these States; however, based on extensive surveys and interagency monitoring efforts (Service 1994), no wolf population presently persists in these States.

3. *Wolf Recovery Efforts:* In the 1970's, the State of Montana led an interagency recovery team, established by the Service, that developed a recovery plan for the Northern Rocky Mountain Gray Wolf. The 1980 recovery plan recommended a combination of natural recovery and reintroduction be used to recover wolves in the area around Yellowstone National Park (the Park) north to the Canadian border, including central Idaho.

A revised recovery plan was approved by the Service in 1987 (Service 1987). It identified a recovered wolf population as being at least 10 breeding pairs of wolves, for 3 consecutive years, in each of 3 recovery areas (northwestern Montana, central Idaho, and Yellowstone). A population of this size would be comprised of about 300 wolves. The plan recommended natural recovery in Montana and Idaho. If two wolf packs did not become established in central Idaho within 5 years, the plan recommended that conservation measures other than natural recovery be considered. The plan recommended use of the Act's section 10(j) authority to reintroduce experimental wolves in the Park. By establishing a nonessential experimental population, more liberal management practices may be implemented to address potential negative impacts or concerns regarding the reintroduction.

In 1990 (Pub. L. 101–512), Congress directed appointment of a Wolf Management Committee, composed of three Federal, three State, and four interest group representatives, to develop a plan for wolf restoration in the Park and central Idaho. That committee provided a majority, but not unanimous, recommendation to Congress in May 1991. Among the measures recommended was a declaration by Congress directing reintroduction of wolves in the Park, and possibly central Idaho, as special nonessential experimental populations with flexible management practices by agencies and the public to resolve potential conflicts. Wolves and ungulates would be intensively managed by the States with Federal funding; thus, implementation was expected to be costly. Congress took no action on the committee's recommendation which would have required an amendment to the Act.

In November 1991 (Pub. L. 102–154), Congress directed the Service, in consultation with the National Park Service and Forest Service, to prepare an Environmental Impact Statement (EIS) to consider a broad range of alternatives on wolf reintroduction in Yellowstone National Park and central Idaho. In 1992 (Pub. L. 102–381), Congress directed the Service to complete the EIS by January 1994 and indicated the preferred alternative should be consistent with existing law.

The Service formed and funded an interagency team to prepare the EIS. Team participants were the National Park Service; Forest Service; the States of Wyoming, Idaho, and Montana; USDA Animal Damage Control; and Wind River and Nez Perce Tribes. The Gray Wolf EIS program emphasized public participation. In the spring of 1992, the news media and nearly 2,500 groups/individuals interested in wolves were contacted to publicize the EIS process.

In April 1992, a series of 27 "issue scoping" open houses were held in Montana, Wyoming, and Idaho, as well as 7 other locations throughout the United States. The meetings were attended by nearly 1,800 people, and thousands of brochures were distributed. In total, nearly 4,000 people gave comments on EIS issues. In July 1992, a report narrating the public comments was mailed to 16,000 people.

In August 1992, 27 additional "alternative scoping" open houses and 3 additional hearings were held in Wyoming, Montana, and Idaho. Hearings were also held in Seattle, Washington; Salt Lake City, Utah; and Washington, D.C. Two major newspapers with circulation in Montana, Wyoming, and Idaho (total circulation about 250,000) distributed a copy of the alternative scoping brochure in the Sunday edition. Nearly 2,000 people attended the meetings, and nearly 5,000 comments were received on methods for managing reintroduced wolves. Public comments typified the strong polarization of concerns regarding wolf management. A report on the public's ideas and suggestions was mailed to about 30,000 people in November 1992. In April 1993, a Gray Wolf EIS planning update report was published. It discussed the status of the EIS, provided factual information on wolves, and requested the public to report wolf observations in the northern Rocky Mountains. It was mailed to nearly 40,000 interested individuals residing in all 50 States and over 40 foreign countries.

The public comment period on the draft EIS (DEIS) began on July 1, 1993, and the notice of availability was published on July 16. The DEIS documents were mailed to potentially affected agencies, public libraries, interested groups, and anyone who requested a copy. Additionally, a flyer containing the DEIS summary, a schedule of the 16 public hearings, and a request to report wolf sightings was inserted into the Sunday edition of 6 newspapers (combined circulation of about 280,000) in Wyoming, Montana, and Idaho. In mid-June 1993, the Service mailed a letter to over 300 groups, primarily in Wyoming, Montana, and Idaho, offering a presentation on the DEIS. This resulted in 31 presentations to about 1,000 people during the comment period.

During the DEIS public review period (July 1 to November 26, 1993) over 160,200 individuals, organizations, and government agencies commented. The magnitude of the response shows the

strong interest people have in wolf management. In early March 1994, a summary of the public comments was mailed to about 42,000 people on the EIS mailing list.

The final EIS was filed with the Environmental Protection Agency on May 4, 1994, and the notice of availability was published on May 9, 1994. The EIS considered five alternatives: (1) Reintroduction of Wolves Designated as Experimental, (2) Natural Recovery (No action), (3) No Wolves, (4) Wolf Management Committee Recommendations, and (5) Reintroduction of Wolves Designated as Nonexperimental. After careful review, the Service's proposed action was to reintroduce nonessential experimental gray wolves in the Park and central Idaho.

The Secretary signed the EIS Record of Decision on June 15, 1994. A letter of concurrence was signed by the Secretary of Agriculture on July 13, 1994. The decision directed the Service to implement its proposed action plan as soon as practical.

Two nonessential experimental population proposed rules, one for the Park and one for central Idaho, were published in the **Federal Register** on August 16, 1994 (59 FR 42108 and 59 FR 42118, respectively). On September 6, 1994, a brochure containing the Record of Decision, proposed rules, and schedule of public hearings was mailed to about 50,000 people. From September 14–22, 1994, a legal notice announcing the proposed rules, hearings, and inviting public comment was published in the Seattle Post-Intelligencer, Olympia Olympian, New Paper Agency (Salt Lake City Papers), Washington Times, Lewiston Morning Tribune, The Idaho Statesman, Wyoming Tribune, Casper Star Tribune, Bozeman Daily Chronicle, and Billings Gazette.

The Service held six public hearings on the proposed rules. The availability of the Record of Decision, public hearings, and proposed rules was published in the **Federal Register** on September 14, 1994 (59 FR 47112). Copies of the proposed rules were distributed to all interested parties. Public hearings were held on September 27, 1994, in Boise, Idaho; Cheyenne, Wyoming; and Helena, Montana, and on September 29, 1994, in Salt Lake City, Utah; Washington, D.C.; and Seattle, Washington. About 90 people testified at these hearings and about 330 people submitted written comments. Comments on the proposed rules were accepted until October 17, 1994.

In Montana, the Service has an active wolf management program due to the presence of breeding pairs of wolves. The Service's program monitors wolves to determine their status, encourages research, provides the public with accurate information, and controls wolves that attack domestic livestock. Wolves that depredate on livestock are translocated or removed. Such action is required to reduce livestock losses, to foster local tolerance, and promote and enhance conservation of wolves. The relocation of wolves under the control program is not intended to accelerate the natural expansion of wolves into unoccupied historic habitat. Although 19 wolves have been removed under the control program, the number of wolves has continued to expand in Montana at about 22 percent per year for the past 9 years.

4. *Reintroduction Site:* The Service decided to reintroduce wolves into the Park because of the following factors. The Park is under Federal jurisdiction, it has high-quality wolf habitat and good potential wolf release sites. It is also far from the natural southern expansion of wolf packs from Montana. Thus, any wolf pack documented inside the Yellowstone experimental population area would probably be from reintroduction efforts rather than from naturally dispersing extant wolf populations in Canada or northwestern Montana. The Service will also reintroduce wolves into central Idaho as a nonessential experimental population published under a separate rule in the **Federal Register**.

The Service determined that reintroduction of wolves into the Park had the highest probability to succeed due to ecological and political considerations (Service 1994). The reintroduction effort will enhance wolf viability by increasing genetic diversity through genetic interchange between segments of the population. The reintroduction plan for the Park should help in achieving wolf recovery goals 20 years sooner than under current natural recovery policy.

Because reintroduced gray wolves will be classified as a nonessential experimental population, the Service's management practices can reduce local concerns about excessive government regulation of private lands, uncontrolled livestock depredations, excessive big game predation, and the lack of State government involvement in the program.

Establishment of gray wolves in the Park will initiate wolf recovery in one of the three recovery areas described as necessary for the species recovery in the northern Rocky Mountains. No existing or anticipated Federal or State actions identified for this release site are expected to have major effects on the experimental population. Central Idaho is identified as the only other alternative site, and it will also receive wolves for reintroduction which will facilitate recovery in that experimental area.

5. *Reintroduction Protocol:* The wolf reintroduction project is undertaken by the Service in cooperation with the National Park Service, Forest Service, other Federal agencies, potentially affected tribes, the States of Wyoming, Montana, and Idaho, and entities of the Canadian government. To obtain wolves, the Service will enter into formal agreements with the Canadian and Provincial governments and/or resource management agencies.

The Park's wolf reintroduction plan requires transferring 45 to 75 wolves from southwestern Canada, representing various sex and age classes, over a 3- to 5-year period. The capture of about 15 wild wolves from several different packs using standard capture techniques will be done annually over 3 to 5 years. Captured wolves will be transported to the Park. Wolves from the same pack will be placed in individual holding pens of about 0.4 hectare (1 acre) for up to 2 months for acclimation to the new environment. The acclimation pens will be isolated to protect the wolves from other animals and to prevent habituation to humans. During the acclimation period but after release, each wolf will be monitored by radiotelemetry to ensure quick retrieval, if necessary. Carcasses of natural prey taken in the Park will be provided to the wolves. Veterinary care, including examinations and vaccinations, will be provided as needed.

Once acclimated, the wolves will be released into the Park. Food (ungulate carcasses) will be provided until the wolves no longer use it. Initially, all wolves will be closely monitored with a gradual reduction over time. Previous experiences with reintroduced wolves have shown that they may not remain together. In general, attempts to locate and/or move lone wolves dispersing throughout the Park will not be done. However, wolves may be moved on a case-by-case basis, if necessary, to enhance wolf recovery in the experimental area. Reintroduced wolves will remain in the wild, as long as they are capable of sustaining themselves on carrion or wild prey. Conflicts between wolves and humans may result in the recapture and/or removal of a wolf in accordance with procedures successfully used with other problem wolves.

An overall assessment of the success of the reintroduction will be made after the first year and for every year thereafter. Procedures for subsequent

releases could be modified, if information from the previous reintroduction warrants such changes. The physical reintroduction phase should be completed within 3–5 years. Once the reintroduced wolves form two packs with each pack raising two pups, for 2 consecutive years, management practices would allow the wolves to grow naturally toward recovery levels. Wolves would only be monitored, and no further reintroduction would take place unless fewer than two litters were produced in a single year. This reintroduction effort is consistent with the recovery goals identified in the 1987 recovery plan for the northern Rocky Mountain Gray Wolf.

It is estimated that the Park's reintroduction effort with a similar effort in central Idaho, plus the natural recovery occurring in northwestern Montana, could result in a viable recovered wolf population (10 breeding pairs in each of 3 recovery areas for 3 consecutive years) by the year 2002.

The Service will continue to ask private landowners and agency personnel adjacent to the Park to immediately report any wolf observations to the Service or other authorized agencies. An extensive information and education program will discourage the taking of gray wolves by the public. Initially, all wolves will be monitored by radio telemetry and, therefore, easy to locate if necessary. Public cooperation with the Service will be encouraged to ensure close monitoring of the wolves and quick resolution of any conflicts that might arise.

Specific information on wolf reintroduction procedures can be found in Appendix 4 "Scientific techniques for the reintroduction of wild wolves" in the environmental impact statement: "The Reintroduction of Gray Wolves to Yellowstone National Park and Central Idaho" (Service 1994).

Status of Reintroduced Populations

In accordance with section 10(j) of the Act, wolves reintroduced into the Park are designated as nonessential experimental. Such designation allows the wolves to be treated as a threatened species or species proposed for listing for the purposes of sections 4(d), 7, and 9 of the Act. This allows the Service to establish a less restrictive special rule rather than using the mandatory prohibitions covering endangered species. The biological status of the wolf and the need for management flexibility resulted in the Service designating gray wolves reintroduced into the Park as "nonessential." The Service determined that the "nonessential" designation, with other protective measures, will conserve and recover the gray wolf in the Yellowstone ecosystem.

It is anticipated that released wolves will come into contact with humans and domestic animals inside and outside of the Park. Public opinion surveys, public comments on wolf management planning, and the positions taken by elected local, State, and Federal government officials indicate that wolves should not be reintroduced without assurances that current uses of public and private lands will not be disrupted by wolf recovery activities. The following provisions respond to these concerns. There would be no violation of the Act for unintentional, nonnegligent, and accidental taking of wolves by the public, provided the take was incidental to otherwise lawful activities, it did not result from negligent conduct lacking reasonable due care or was in defense of human life. Such wolf takings would need to be reported to the Service or other authorized agency within 24 hours. The Service may designate certain Federal, State, and/or tribal employees to take wolves that required special care or pose a threat to livestock or property. Private land owners or their designates would be permitted to harass wolves in an opportunistic noninjurious manner on their leases or private property, provided such harassment was reported within 7 days to the Service or other authorized agency.

Under the "nonessential" status, private landowners or their designates would be permitted to take (injure or kill) a wolf in the act of wounding or killing livestock on private land. However, physical evidence (wounded or dead livestock) of such an attack would be required to document that the attack occurred simultaneously with the taking. A report of such a take would need to be immediately (within 24 hours) reported to the Service or other authorized agency personnel for investigation. Once six or more breeding pairs are established in the Park or experimental area, livestock owners or their designates could receive a permit from a Service-designated agency to take (injure or kill) gray wolves that are attacking livestock on permitted public livestock grazing allotments. Such a take would be only permitted after due notification to Service-designated agencies and unsuccessful capture efforts.

Wolves that repeatedly (two times in a calendar year) attack domestic animals other than livestock (fowl, swine, goats, etc.) or pets (dogs or cats) on private land would be designated as problem wolves and relocated from the area by the Service or a designated agency. After one relocation, wolves that continued to depredate on domestic animals would be considered chronic problem wolves and would be removed from the wild.

It is unlikely that wolf predation on big game populations would be primary cause for failure of the States or tribes to meet their specific big game management objectives outside of the national parks and national wildlife refuges. The Service could, however, determine that wolves responsible for excessive depredation should be translocated to other sites in the experimental area. Such actions are expected to be rare and unlikely to impact the overall recovery rate. States and tribes would need to define such situations in their Service-approved wolf management plans before such actions could be taken. Under the nonessential designation, wolves could not be deliberately killed solely to resolve predation conflicts with big game.

The States of Wyoming, Montana, and Idaho and potentially affected tribes will be encouraged to enter into cooperative agreements for management of the gray wolf outside of national parks and national wildlife refuges. These cooperative agreements would be reviewed annually by the Service to ensure that the States and tribes have adequate regulatory authority to conserve listed species, including the gray wolf. The National Park Service will be the primary agency implementing the experimental population rule inside the boundaries of national parks. States and tribes are anticipated to be the primary agencies implementing this experimental population rule outside of national parks and national wildlife refuges after their wolf management plans are approved by the Service. The Service will provide oversight, coordinate wolf recovery activities, and provide technical assistance. If the States and tribes do not assume wolf management responsibilities or adhere to provisions of their wolf management plans, the Service would assume management authority. If for unforeseen reasons the wolf population failed to sustain positive growth toward recovery levels for 2 consecutive years, the influencing factors would be identified. The Service, and affected States or tribes would be responsible for determining if any management strategies needed modification. The Service in coordination with the States and tribes would implement those strategies to ensure wolf population recovery.

The Service finds that protective measures and management practices are

necessary and advisable for the conservation and recovery of the gray wolf and that no additional Federal regulations are required. The Service also finds that the nonessential experimental status is appropriate for gray wolves taken from wild populations and released in the Park. The nonessential status for such wolves allows for additional management flexibility. Nonessential experimental populations located outside of a national park or national wildlife refuge are treated under the Act as if they were only proposed for listing, and not listed. Only section 7(a)(1) and section 7(a)(4) apply to Federal actions outside national parks and wildlife refuges. Presently, there are no conflicts envisioned with any current or anticipated management actions of the Forest Service or other Federal agencies in the areas. The national forests are beneficial to the reintroduction effort in that they form a natural buffer to private properties and are typically managed to produce wild animals that wolves could prey upon. The Service finds the less restrictive section 7 requirements associated with the nonessential designation do not pose a threat to the recovery effort and continued existence of the gray wolf.

The full provisions of section 7 apply to nonessential experimental populations in a national park or national wildlife refuge. Consequently, the Service, National Park Service, Forest Service, or any other Federal agency is prohibited from authorizing, funding, or carrying out an action within a national park or national wildlife refuge that is likely to jeopardize the continued existence of the gray wolf. Pursuant to 50 CFR 17.83(b), section 7 determinations must consider all experimental and nonexperimental wolves as a listed species for analysis purposes in national parks. The Service has reviewed all ongoing and proposed uses of the parks and refuges and determined that none are likely to jeopardize the continued existence of the gray wolf, nor will they adversely affect the success of the reintroduction program.

Most of the reintroduction area is remote and sparsely inhabited wild lands. However, there are some risks to wolf recovery associated with take of wolves in regard to other land uses and various recreational activities. Potential threats are hunting, trapping, animal damage control activities, and high speed vehicular traffic. Hunting, trapping, and USDA Animal Damage Control programs are prohibited or strictly regulated in national parks, as well as closely regulated by State and Federal law and policy. There are very few paved or unpaved roads in the proposed reintroduction area or immediately outside of it. The unpaved roads typically have low vehicle traffic, are constructed for low speeds and used only seasonally. Thus, wolves should encounter vehicles infrequently. In accordance with existing labeling, the use of toxicants lethal to wolves in areas occupied by wolves is prohibited. Overall, the possible risks and threats that could impact the success of the reintroduction effort are thought to be minimal.

Location of Experimental Population

The release site for reintroducing wolves will be in Yellowstone National Park. The designated experimental population area will include the State of Wyoming; that portion of Idaho east of Interstate Highway 15; and the State of Montana east of Interstate Highway 15 and south of the Missouri River east of Great Falls, Montana, to the Montana/North Dakota border.

Management

To date, the experimental population area does not currently support any reproducing pairs of wolves. It is also unlikely that wolves from the natural southern expansion from northwestern Montana have arrived in the Park. Except for the gray wolves in northwestern Montana, only an occasional, isolated wolf has been reported, killed, or otherwise documented in Idaho, Wyoming, Montana, or other Western States. Single packs have been reported throughout the northern Rocky Mountains. However, these reported wolves or groups of wolves, if factual, apparently disappeared for unknown reasons and did not establish recoverable "populations" as defined by wolf experts. A wolf population is defined as at least two breeding pairs of gray wolves that each successfully raise at least two young to December 31 of their birth year for 2 consecutive years (Service 1994). Thus, the Service has determined that there is no population of wolves in the Park and therefore, the Park reintroduction is consistent with provisions of section 10(j) of the Act; specifically, that experimental wolves need to be geographically separate from other nonexperimental populations. It is possible that prior to 2002, other wolves may appear in the wild and be attracted to the experimental area occupied by the reintroduced wolves. Any "new" arrivals would be classified as part of the experimental population. These wolves could assist in the recovery and expansion of the experimental population to where wolves could be dispersing into central Idaho and Montana.

Wolves dispersing into areas in Idaho and Montana, outside of the experimental area, would continue to receive endangered species protection under the Act, as did the wolves that recolonized an area near Glacier National Park in 1982. It is also possible, but not probable, that during the next 3 years wolves could move between recovery areas and enhance the genetic diversity between natural recovery areas and reintroduction sites. It is not anticipated that such exchange will significantly alter the recovery rate in the Park's experimental population area.

Although the Service determined that there is no existing wolf population in the recovery area that would preclude reintroduction and establishment of an experimental population in the Park, the Service will continue to determine the presence of any wild wolves. Prior to any reintroduction, the Service would evaluate the status of any wolves found in the experimental population area. If a wolf population is discovered in the proposed experimental area, no reintroduction of wolves would occur. Instead, the success of the naturally occurring wolf population would be monitored to determine if recovery was continuing. If a natural wolf population is located in the experimental area prior to the effective date of the final rule, then the final rule would not be implemented and there would be no reintroduction program. Wolves naturally occurring would be endangered and managed as such, with full protection under the Act. If the natural wolf population failed to maintain positive growth for two consecutive years, then the reintroduction effort could proceed or other recovery measures taken. After reintroduction is completed, according to the Reintroduction Protocol (section 5 above), management of the experimental population will begin.

Once this rule is effective and wolves have been released into the recovery area, the rule would remain in effect until wolf recovery occurs or a scientific review indicates that modifications in the experimental rule are necessary to achieve wolf recovery.

If a wolf population is discovered in the Park's recovery area, after the effective date of the experimental population rule but before release, reintroduction under the rule would not occur in that area and any such wolves would be managed as a natural recovering population. Boundaries of the proposed experimental population

area would be changed, as needed, to encourage recovery of the naturally occurring, breeding wolf population. No experimental population area will contain a portion of the home range of any active breeding pairs of wolves that have successfully raised young, prior to the establishment of the experimental area.

Management of the nonessential experimental wolf population would allow reintroduced wolves to be killed or moved by Service authorized Federal, State, and tribal agencies for domestic animal depredations and excessive predation on big game populations. Under special conditions, the public could harass or kill wolves attacking livestock (cattle, sheep, horses, and mules). There would be no Federal compensation program, but compensation from existing private funding sources would be encouraged. When six or more wolf packs are documented in the experimental population area outside of the national parks and national wildlife refuges, there would be no land-use restrictions, including areas around den sites or other critical areas.

Wolves have a relatively high reproductive rate. Projected recruitment would off-set the anticipated 10 percent mortality resulting from management control actions. An additional 10 percent loss could occur from other mortality sources. Once reintroduced wolves reach the goal of six wolf packs, the reproductive output of the packs would provide a population increase at or near 22 percent per year. Closely regulated public control (taking of depredating wolves) would effectively focus on only individual problem wolves. Agency control actions would more likely target groups of wolves containing problem individuals.

The Service, and States or tribes as authorized, could move wolves that are negatively impacting ungulate populations. Such wolves would be moved to other places within the experimental population area. Two examples when this would occur are (1) when wolf predation is dramatically affecting prey availability because of unusual habitat or weather conditions (e.g., bighorn sheep in areas with marginal escape habitat) and (2) when wolves cause prey to move onto private property and mix with livestock, increasing potential conflicts. The States and tribes will define such unacceptable impacts, how they would be measured, and identify other possible mitigation in their State or tribal management plans which are to be approved by the Service through cooperative agreement before such control actions are conducted. Wolves will not be deliberately killed solely to address ungulate-wolf conflicts. Control actions by the States or tribes likely to be significant or beyond the provisions of the experimental rule as determined by the Service would have to be specifically incorporated into an amendment of this experimental rule and subject to national public comment and review.

Management of wolves in the experimental population would not cause major changes to existing private or public land-use restrictions (except at containment facilities during reintroduction) after six breeding pairs of wolves are established in this experimental area. When five or fewer breeding pairs are in the experimental area, land-use restrictions could be used, as needed, to control intrusive human disturbance on public lands. Their implementation would be at the discretion of land management and natural resources agencies. Before five or fewer breeding wolf pairs are established, temporary restrictions on human access near active wolf den sites may be required between April 1 and June 30. Any restrictions on private land would only occur with complete landowner cooperation and concurrence.

The Service, and Federal, State, or tribal agencies, after they have been authorized by the Service, could promptly remove any wolf from the experimental population once the Service, or its authorized agencies, has determined it was presenting a threat to human life or safety. Although not a management option *per se*, it is noted that a person can legally kill or injure wolves in response to an immediate threat to human life. The incidental, unavoidable, unintentional, accidental take in the course of otherwise lawful activity, or in defense of human life, would be permitted by the Service and its authorized agencies, provided that such taking was not resulting from negligent conduct lacking reasonable due care, due care was exercised to avoid taking a wolf, and the taking was immediately (within 24 hours) reported to the appropriate authorities. Shooters have the responsibility to identify their target before shooting. The act of taking a wolf that is wrongly identified as another species, for purposes of this rule, will be considered as intentional, negligent, and not accidental. Such take may be referred to the appropriate authorities for prosecution.

The Service, and other Federal, State, or tribal agencies, after they have been designated by the Service, may control wolves that attack livestock (cattle, sheep, horses, and mules) by aversive conditioning, nonlethal control, and/or moving wolves when five or fewer breeding pairs are established, or by other previously described measures. Killing wolves or placing them in captivity may only be considered when there are six or more breeding pairs established in the experimental population area. When depredation occurs on public land and prior to the establishment of six breeding pairs, depredating females and their pups would be captured and released, at or near the site of capture, one time prior to October 1. If depredations continue, or if six packs are present, females and their pups would be removed. Wolves on private land under these same circumstances would be moved. Wolves that attack other domestic animals or pets on private land twice in a calendar year would be moved, and chronic problem wolves would be removed from the wild.

The Service, other Federal agencies, and State or tribal wildlife personnel would be authorized and trained to take wolves under special circumstances. Wolves could be live-captured and translocated to resolve conflicts with State or tribal big-game management objectives, when they are located outside of the experimental areas, or to enhance wolf recovery. If the captured animal is clearly unfit to remain in the wild, it could be placed in a captive facility. Killing of any wolves would be a last resort and only authorized when live capture attempts fail or there is some clear danger to human life.

The Service and authorized agencies of the Service would use the following conditions and criteria to determine the status of problem wolves within the nonessential experimental population area:

(1) Wounded livestock or the partial remains of a livestock carcass must be presented with clear evidence (Roy and Dorrance 1976; Fritts 1982) that the livestock injury or death was directly caused by a wolf or wolves. Such evidence is essential for justifying any control action because wolves may feed on carrion they did not kill. Additionally, there must be an indication that additional livestock losses may occur if the problem wolf or wolves are not controlled.

(2) No evidence of artificial or intentional feeding of wolves can be present. Improperly disposed livestock carcasses located in the area of depredation will be considered attractants. On Federal lands, removal or a decision on the use of such attractants must accompany any control action. If livestock carrion or carcasses are not being used as bait for an

authorized control action on Federal lands, it must be removed or otherwise disposed of so that they will not attract wolves.

(3) On Federal lands, animal husbandry practices previously identified in existing approved allotment plans and annual operating plans for allotments must have been followed.

Federal responsibility for protecting gray wolves under the experimental population provisions of the Act would continue until formal delisting rulemaking procedures are completed. In accordance with the Act, delisting may occur when analysis of the best available scientific and commercial information shows that gray wolves are no longer threatened with extinction due to: (1) Loss of habitat, (2) overutilization, (3) disease or predation, (4) inadequacy of existing regulatory mechanisms, and (5) other natural or manmade factors. In addition to the above, the following criteria must be met: (1) For 3 consecutive years, a minimum of 10 breeding pairs are documented in each of the 3 recovery areas described in the revised wolf recovery plan (Service 1987); (2) protective legal mechanisms are in place; and (3) the EIS evaluation has been completed (Service 1994). After delisting, the Act specifies a species population must be monitored for a 5-year period. After delisting, if in any 1 of the 3 recovery areas the wolf population fell below the minimum of 10 breeding pairs for 2 consecutive years, then wolves in that recovery area would be considered for protective status under the Act.

All reintroduced wolves designated as nonessential experimental will be removed from the wild and the experimental status and regulations revoked when (1) legal actions or lawsuits change the wolves status to endangered under the Act or (2) within 90 days of the initial release date, naturally occurring wolves, consisting of two breeding pairs that for 2 consecutive years have each successfully raised two offspring, are discovered in the experimental population area. The naturally occurring wolves would be managed and protected as endangered species under the Act.

Summary of Comments and Recommendations

Two proposed nonessential experimental population rules for the areas of Yellowstone National Park and central Idaho were published in the **Federal Register** on August 16, 1994 (59 FR 42108 and 59 FR 42118, respectively) (Service 1994a). The Record of Decision, notification of the proposed rules, and tentative schedule for public hearings were mailed to nearly 50,000 people on September 6, 1994. All interested parties were requested to submit factual reports or information that might contribute to the development of the final rule. Appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. A legal notice announcing the proposed rules, hearings, and inviting public comment were published in the Seattle Post-Intelligencer, Olympia Olympian, New Paper Agency (Salt Lake City Papers), Washington Times, Lewiston Morning Tribune, The Idaho Statesman, Wyoming Tribune, Casper Star Tribune, Bozeman Daily Chronicle, and Billings Gazette beginning on September 14, 1994.

The Service held six public hearings on the proposed rules. A notification of the hearings and availability of the Record of Decision and proposed rules was published in the **Federal Register** on September 14, 1994 (59 FR 47112). Copies of the proposed rules were distributed to all interested parties. Public hearings were held on September 27, 1994, in Boise, Idaho; Cheyenne, Wyoming; and Helena, Montana, and on September 29, 1994, in Salt Lake City, Utah; Washington, D.C.; and Seattle, Washington. About 90 people testified at these hearings and about 330 people submitted written comments. Comment on the proposed rules was accepted until October 17, 1994.

A total of 426 written and oral responses, representing 621 signatures, were received during the proposed rule 34-day comment period. Several letters, including letters from the Governor of the State of Wyoming and the Colorado Wool Growers Association, were received after comment period closed. However, these letters were reviewed and considered. From October 17 to 24, 1994, a specialized interagency team analyzed the public comments. After October 31, 1994, the team's report was distributed to agency cooperators and to anyone requesting it (Service 1994c). In addition to the public comments, three Notices of Intent to Sue were received. The Service has completed its review and consideration of all written and oral comments. All of the issues raised by the public on the proposed rules were previously identified and addressed in the final EIS. Analysis of the comments revealed 25 issues which are identified and discussed below.

Changes in final rule as a result of public comment: The following minor changes and clarifications were made to the final rule or to discussions of the final rule based on public comments on the proposed rule. These individual or cumulative changes do not alter the predicted impact or effect of the final rule.

1. Several conditions on when wolves may be harassed or taken were removed from the final rule. The following conditions are not part of the final rule: (1) Distinction between adult wolves and pups, and (2) harassment may only occur for 15 minutes.

2. In the background discussion of the final rule, it was clarified that after a private individual takes a depredating wolf, no additional agency actions will be conducted to control problem wolves in an area, unless more livestock depredations occur. This assumes that the problem wolf was killed, and therefore, no other control actions are required.

3. Several terms in the final rule were clarified and defined, including: "opportunistic noninjurious harassment," "unintentional take," "disposal of livestock carrion," issuance criteria for a wolf take permit to a grazing lessee on public lands, and criteria for resolving wolf/ungulate conflicts.

4. A termination clause was added to the final rule. The clause clarifies the Service's role and responsibilities regarding the establishment of an experimental population.

5. Three years following the initial reintroduction of wolves, a thorough review will be conducted. The review will determine if further reintroductions are required and if, to date, the management program has been successful. A provision to the rule was added that if the reintroduction and management practices under the experimental population rule did not result in wolf recovery, the Service would take appropriate actions. Such actions would be caused by the failure of the wolf population to maintain positive growth for 2 consecutive years. All corrective actions would be coordinated with affected States, tribes, and other Federal agencies.

6. Language regarding scientific or technical decisions in the background discussion of the rule was changed. Study design and reintroduction techniques may be changed or modified when expert and skilled biologists determine such changes are necessary and prudent.

A list of relevant issues based on public comments and the Service's response to those issues follows.

Issue 1: The subspecies of wolf that occupied the Yellowstone area was

Canis lupus irremotus. The reintroduction program will use wolves from Canada which were once classified as a different subspecies; therefore, this violates the experimental population provision of the Act.

Service Response: In recent times, there have been several revisions to the taxonomic classification of wolves in North America. Several scientific investigations have dealt with this issue (Brewster and Fritts 1994, Nowak 1994, Wayne et al. 1994). These investigations concluded (1) there were fewer wolf subspecies than previously believed, (2) *irremotus* was not a distinct subspecies, and (3) that wolves might be better classified as types or representative groups of geographic or climatic conditions rather than distinct subspecies. The northern Rocky Mountains are within the historic range of *Canis lupus*. Investigators conclude that reintroduction of wolves from Canada to the Park or central Idaho would accelerate the ongoing natural southern expansion of the species. Additionally, it was determined that current taxonomic discussions of wolf subspecies should not affect wolf recovery efforts in the northern Rocky Mountains of the United States.

Issue 2: The amendment to section 10(j) of the Act states that experimental populations may only be designated when there is geographical separation between the experimental population and other existing populations of the species. The occasional occurrence of lone wolves in the areas of central Idaho and Yellowstone would prohibit the use of the experimental population designation since there would be no geographic separation between natural occurring and experimental wolves. Comments also stated that the boundaries of the experimental areas should be adjusted or the reintroduction program should be delayed, particularly, in central Idaho due to the presence of naturally occurring wolves.

Service Response: For many years, the Service and other agencies have tried to document wolf activity in Montana, Idaho, and Wyoming (Service 1994a Appendix 12). Since the 1970's, wolf observations particularly from Montana, Wyoming, and Idaho, have been reported. However, to date the only documented breeding groups of wolves are in northwestern Montana. Based on scientific inquiry, the Service defines a wolf population as at least two breeding pairs of wild wolves each successfully raising at least two young each year, for 2 consecutive years, and that a population is composed of breeding groups of wolves (Service 1994a, Appendix 9). Presently, there are no known breeding pairs of wolves within the experimental area. Nor does the experimental area contain any portions of home ranges of any breeding pairs of wolves. The Service finds that there is no geographic overlap between any Montana wolf population home range and the experimental area. The northern boundary of the Idaho experimental population area was moved further south because, in 1990 and 1992, there were a few instances when an active breeding group of wolves from Montana were located south of the experimental boundary recommended in the proposed rule. The rulemaking language now allows revocation of this rule and removal of all reintroduced wolves, if within 90 days after the initial reintroduction a naturally occurring wolf population is discovered in the experimental area. Any naturally occurring wolves will be managed as endangered species under the Act and afforded the same terms and conditions as wolves in Montana. The Service has had a wolf monitoring program in place in Idaho, Montana and Wyoming for over two years. This system is designed to accept reports from anyone, and when a report focuses on a particular area a wolf biologist investigates to verify the presence or absence of wolves. Through this method the Service has identified newly formed packs in northwestern Montana. Within the experimental area, no confirmation of wolves from provided reports has occurred.

Issue 3: The experimental population rules did not utilize the best scientific and commercial data available to reach decisions, as required by the Act.

Service Response: The Service contends that this rule and the Secretary's decision to reintroduce wolves used the best scientific data available and underwent peer review and scientific analysis. The EIS on the impacts of this rule includes several appendices and a list of persons who contributed their expert opinions or relevant data to the decisionmaking process (Service 1994a). Professional wildlife biologists and scientific organizations complimented the Service on the depth and detail of its scientific investigation in regards to the reintroduction of wolves.

Issue 4: The reintroduction plan does not enhance the conservation and recovery of wolves, as required by the Act. Reintroduction, particularly in central Idaho, should not be conducted or should be delayed for several years while a search for existing wolves is conducted.

Service Response: For the past 20 years and presently, the Service and others have searched for wolves in the northern Rocky Mountains. Reviews of correspondence from the past 25 years show the longstanding and widespread view that wolves already occupied Idaho and the discovery of their presence imminent. Very extensive monitoring within the experimental population area has not confirmed the presence of wolves. This particular species is not habitat limited and if allowed to get into the experimental area would reproduce and survive. The translocation of wild wolves from Canada to the Park will provide the opportunity to start a wolf population. This translocation effort will greatly facilitate recovery of the gray wolf in the Yellowstone ecosystem. The 1987 Rocky Mountain wolf recovery plan recommended an additional 5 years of monitoring for natural wolf recovery in Idaho. However, the recovery plan provided other options if two breeding pairs of wolves had not become established in Idaho during the 5 years. Because no breeding pairs have been located, the draft and final EIS and Record of Decision allow the simultaneous reintroduction of wolves into central Idaho and the Park in an effort to ensure the viability and conservation of wolves in the Rocky Mountains (Service 1994a, Appendix 16).

Issue 5: The Service proposed a very liberal experimental rule to accommodate concerns of local residents and the affected States. However, it did not make allowances for unforeseen circumstances that may impede or prevent wolf population growth and recovery. Options such as increased management or greater numbers of reintroductions should be allowed if required.

Service Response: The Service believes that, as proposed, reintroduction and management techniques will result in wolf population recovery and delisting by about 2002. Rulemaking language was added clarifying that take activities must lead to eventual recovery of the wolf. Additionally, if there is no progress in achieving wolf population recovery (i.e., if wolves in a recovery area do not exhibit positive growth for 2 consecutive years), then factors impacting population growth will be investigated. Information from the investigation will be made available to the public and appropriate Federal, State, and tribal agencies. Within a year, the agencies may recommend and implement new management actions or modifications to their wolf management plans to correct factors negatively impacting wolf recovery. Only as a last

resort would changes or modifications to sections of the experimental rule be made.

Issue 6: The proposed rules' requirements that "only adult wolves (greater than 50 pounds) can be harassed" and then "only for 15 minutes" and "only adult wolves that are witnessed attacking livestock on private land can be killed by private parties" are overly restrictive. The provision that wolves can only be killed under a special permit when (1) seen attacking livestock for the third time on Federal lands, (2) six or more wolf packs are present in the experimental population, and (3) all agency control efforts have failed, does not address the issues in a timely or efficient manner. The implication that land-use restrictions may be employed on private lands when five or fewer wolf packs are present in the experimental area also needs clarification.

Service Response: The Service agrees and has eliminated (1) the distinction between adult wolves and pups for both noninjurious harassment and take and (2) the length of time wolves may be harassed (as long as physical injury is not incurred). Permittees with grazing rights on public land can readily obtain a written take permit for wolves seen attacking livestock. However, issuance criteria still require that prior to issuing the 45-day take permit (1) six or more wolf packs must be present in the experimental population area, (2) authorized agencies must confirm that a wolf caused the livestock injury or death, and (3) other agency control actions have failed to resolve the problem. The final rule also clarifies that no land-use restrictions will be exercised by Federal agencies on private land at any time.

Issue 7: Certain parts of the rule need to be more specific, so that potential management situations are individually described and addressed in the final rule. Commenters provided a variety of scenarios as examples.

Service Response: The Service added or clarified definitions and/or language in the final rule. However, the wolf reintroduction program is complex and has many unforeseen variables. It is impossible to imagine or describe in detail every situation that might arise during its implementation. Some situations can only be accurately addressed on a case-by-case basis and judged by their particular circumstances. It is the intent of the Service to use the experimental rule to aid the conservation, recovery, and eventual delisting of wolf populations in the northern Rocky Mountains of the United States. The Service in cooperation with other Federal, State, and tribal agencies will use the flexibility of the experimental rule to address local concerns and unforeseen situations. The professional expertise and experience of wildlife managers will facilitate the implementation and any modifications needed to improve the wolf reintroduction program. Additional language was added to the rule, clarifying that management flexibility is required as the program is implemented and refined.

Issue 8: The Service should make a clear commitment to fund all aspects of wolf reintroduction and management, including compensation to the States and tribes for their efforts. The Service should closely monitor the compliance of other agencies to the experimental population rules.

Service Response: To date, the Federal government has funded the participation of affected States and tribes in regard to wolf restoration program. The Service plans to continue its funding commitment with Congressional appropriations until wolves are delisted. The public stated its concern over the use of taxpayer dollars and the need for government to wisely spend tax dollars. The Service, therefore, must keep expenses for wolf reintroduction as low as possible while maintaining an effective program. The Service will encourage the States and tribes to submit reasonable budgets for wolf management programs, as well as search for ways to pool and coordinate resources so that overall costs are reduced. It is the legal responsibility of the Service to monitor the progress and adherence of State and tribal agencies to their management plans. The Service will ensure and work cooperatively with others to meet the stated recovery goals.

Issue 9: The wolf reintroduction effort needs to have a federally funded livestock damage compensation program. Wolf reintroduction will result in the "taking" of constitutionally protected private property rights.

Service Response: In Montana, the Defenders of Wildlife implemented a private livestock compensation program. Because the Defenders Program has been successful, it was expanded to include Idaho and Wyoming. The Service will not directly fund a livestock compensation program. The Service will encourage livestock producers to utilize private compensation programs when depredation occurs. The Service and USDA Animal Damage Control will aid livestock producers by maintaining an effective control program that minimizes livestock losses due to wolves. The rule addresses the concerns of private property owners by (1) providing an effective control program, (2) allowing landowners to take wolves on their private land when justified, and (3) invoking no land-use restrictions on private land. The Service has reviewed the constitutionality of this rule in regard to protected private property rights. The review concludes the Service's actions do not violate the private property rights of individuals (Service 1994a, Appendix 6).

Issue 10: The Act requires the Service to consult with appropriate Federal, State, tribal, and local entities or private landowners, to the maximum extent practicable, prior to promulgating regulations. The Service has failed to meet such requirements.

Service Response: It is well documented that the Service made an extraordinary effort to involve the public and other government entities in developing management practices and the experimental population rules regarding the wolf reintroduction program. During the past 3 years, the Service held over 100 meetings, open houses, and hearings. The Service distributed over 750,000 documents and reviewed and considered nearly 170,000 public comments during development of the rule. Federal agencies and affected States and tribes were active participants during the process. This final rule represents the participatory work and consensus of affected agencies and others interested or impacted by the rulemaking.

Issue 11: Further discussion and detail are needed on how State and tribal agencies will manage wolf predation and ungulate population levels. The public needs to know exactly what will be done in regard to this issue.

Service Response: The Service is confident in the States' and tribes' ability to evaluate the impact wolf predation may have on ungulate populations and, when appropriate, implement corrective management actions. An evaluation of possible impacts and/or actions in regard to a specific ungulate species and location is best accomplished by biologists most familiar with the situation. The Service, States, and tribes will coordinate wolf management plans to ensure that State and tribal interests in native ungulate management are met while meeting the Service's mandate for wolf recovery. Rulemaking language was added to the section on how States and tribes will manage ungulate/wolf conflicts. States and tribes are required to prepare acceptable management plans for approval by the Service. It is expected that since these management plans may

affect State wildlife management programs, the States will go through a public review process as part of their development. Such plans will indicate the point at which wolf/ungulate conflicts become so critical that corrective action must be taken. A decision to translocate wolves to reduce such conflicts must serve to enhance, or at a minimum not inhibit, wolf recovery.

Issue 12: The timeframe for submitting a report on the harassing and/or taking of wolves by the public should be changed (both shortened or lengthened were mentioned).

Service Response: The timeframes for a person to report the harassing (7 days) and/or the unintentional taking (24 hours) of wolves were not changed. The harassing or taking of a wolf is a critical and potentially serious event. A person who harasses a wolf is best served by reporting the incident as soon as possible so agency management actions can be implemented, if necessary. Submission of a report on wolf harassment provides a record which can document the continuation of suspected or actual livestock depredations or rationale for taking a wolf. The immediate reporting of livestock depredation by a wolf also allows the immediate investigation of the incident and gathering of fresh evidence. In Montana, agency professionals who investigate livestock depredations are readily accessible during the night, weekends, and holidays. During the past 9 years in Montana, the reporting, documenting, and resolution of livestock depredations have not been significant issues. Therefore, they are not anticipated to be a problem for wolf reintroductions into the experimental population areas. The United States legal system often takes into account unusual mitigating circumstances, such as the remoteness of a livestock allotment interfering with an individual being able to report an incident as required by regulation. The Service could determine that an incident would not be referred for prosecution, when a person failed to meet the reporting requirements and could justify their action.

Issue 13: The delisting criteria should be clearly identified. The delisting of one recovery area should be independent of the status of other recovery areas.

Service Response: In accordance with the Act, delisting may occur when analysis of the best available scientific and commercial information shows that gray wolves are no longer threatened with extinction due to: (1) Loss of habitat, (2) overutilization, (3) disease or predation, (4) inadequacy of existing regulatory mechanisms, and (5) other natural or manmade factors. In addition to the above, the final EIS, states that the following criteria must be met: (1) For 3 consecutive years, a minimum of 10 breeding pairs are documented in each of the 3 recovery areas described in the revised wolf recovery plan (Service 1987); (2) protective legal mechanisms are in place; and (3) the EIS evaluation has been completed (Service 1994). After delisting, the Act specifies a species population must be monitored for a 5-year period. After delisting, if in any 1 of the 3 recovery areas the wolf population fell below the minimum of 10 breeding pairs for 2 consecutive years, then wolves in that recovery area would be considered for protective status under the Act. Delisting procedures have been discussed (Service 1994a, Appendix 11). Endangered wolves in northwestern Montana can be downlisted to threatened once 10 breeding pairs are documented for 3 consecutive years. Experimental populations of wolves cannot be downlisted because their protective status is based on the experimental population rule. Experimental population rules can be withdrawn when wolf numbers have reached recovery levels, no further protection under the Act is required, and the wolf is delisted.

Issue 14: The reintroduction of wolves will negatively affect the recovery of other species listed under the Act. This issue was not addressed in the rule.

Service Response: The Service prepared and published an intra-Service evaluation of its proposed action in the draft and final EIS (Service 1994a, Appendix 7). The evaluation concluded that wolf reintroduction and implementation of the experimental rules would not adversely impact other endangered or threatened species. In November 1994, Service field offices in Idaho, Montana, and Wyoming reviewed the proposed rules and came to the same conclusion. The Service finds that the impact of the final rules, like the predicated impact reviewed of the proposed rules, will not adversely affect other protected species.

Issue 15: The proposed rules did not discuss how potential wolf/dog hybrids or wolf/coyote hybrids will be addressed.

Service Response: The hybridization of wolves with other canids may occur; however, it is not a significant problem anywhere in North America where ranges of wolves, domestic dogs, coyotes, and foxes overlap (Service 1994a, Chapter 1). Thus, it is not anticipated to be a problem in the northern Rocky Mountains. The rules state the Service or other authorized agencies may remove reintroduced wolves that breed with domestic dogs, coyotes, or foxes, or their hybrid-offspring. Individual animals that agency biologists suspect to be domesticated wolves or wild wolf/other canid species hybrids would be removed from the wild after examination of the canid's physical or behavioral characteristics.

Issue 16: The experimental population rule improperly removes full endangered species protection and bestows experimental status on any naturally occurring wolves found inside the experimental population boundaries.

Service Response: It is documented that individual wolves may disperse over 500 miles. However, for the past 10 years, there has been no evidence of naturally occurring wolves dispersing to and producing a viable wolf population in the central Idaho or Yellowstone areas. After the effective date of the experimental population rules, any such wolves and their offspring would be treated as experimental population animals. From a practical wildlife management perspective, the Service cannot be expected to determine if an individual wolf had naturally dispersed into the area or been reintroduced. The initial reintroduced animals will be radio collared and differentiated. Once they have reproduced it would be impossible to determine if the wolf was a wild dispersing animal or progeny of experimental wolves. The rule as written helps avoid the possible conflict. Such a distinction, therefore, cannot be treated separately by regulation. Undoubtedly, the establishment of a viable wolf population and recovery of the species will be enhanced by the reintroduction of 30 wolves annually for the next 3–5 years. The presence of reintroduced wolves may increase the probability of naturally dispersing wolves from northwestern Montana or Canada to move into, stay, and reproduce in an experimental area. While this event would contribute to population recovery, it would not greatly impact the overall population growth rate since the majority of breeding wolves would be reintroduced animals.

Issue 17: Denning and rendezvous sites must be protected, even after 6 packs are established. There needs to be more types of land use restrictions (road closures) to protect wolves.

Service Response: Wolves are adaptable to a wide variety of human activities, except for deliberate killing. Experiences in North America indicate

that human disturbance, even around active den sites, is not a significant factor affecting wolf survival or population growth (Service 1994a, Appendix 13). The rule protects active wolf dens during the earliest stages of wolf recovery, if necessary. Killing wolves is illegal except for a very few limited exceptions. The rule allows flexibility to reconsider land use restrictions if wolf populations do not grow toward recovery levels. Wolves in Montana have not needed land-use restrictions and, at this time, land-use restrictions do not appear necessary for wolf populations to recover in Idaho or Wyoming.

Issue 18: Private individuals should not be able to kill wolves, even by permit.

Service Response: The opportunity for private individuals to kill wolves in the experimental population areas is limited to when wolves are actually in the act of killing livestock. The Service has determined that wolves that exhibit this behavior do not further conservation of the species and for that reason are currently controlled (Service 1988). The selective removal of this type of individual by the public is warranted in certain limited circumstances and their removal contributes to conservation of the species. Agency control would be initiated anyway and, under tight regulation, public control can be more likely to remove the specific problem individual than agency control actions. If a wolf is taken in the act of depredating, further agency control would not be conducted unless additional depredations occur. This limited taking of wolves by the private sector could reduce the total number of wolves that might be taken in response to livestock depredations and reduces the opportunity for other wolves to feed on or learn to depredate on livestock.

Issue 19: The Secretary has not made the determination that use of an experimental rule and reintroduction of wolves would further the conservation of the species as required by 50 CFR 17.81.

Service Response: As stated in the Service's EIS, in the proposed rule, and in the final rule, removal of wolves from Canadian populations would not significantly impact those populations (59 FR 42110); the likelihood that wolf populations would become permanently established and grow to recovery level is extremely high (59 FR 42111); reintroduction would greatly accelerate wolf population recovery, enhance wolf population viability, and lead to subsequent delisting (59 FR 42110); and the reintroduced wolves and subsequent population that developed would not be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (59 FR 42112), therefore, the release of the experimental wolves would further the conservation of the species (Service 1994a, Service 1994b).

Issue 20: Wolf management should remain with the Service until delisting. The States or federal agencies like Animal Damage Control should not be involved in wolf recovery.

Service Response: The rule clarifies that while the States and Tribes are encouraged to lead implementation of the experimental rule, the Service will monitor and is ultimately responsible for the recovery of the species. Should progress toward wolf recovery not be evident (two years of no growth would trigger other conservation measures), the Service will cooperate with the states and tribes to assure steps are taken to resume progress toward recovery. The states and tribes already have highly professional wildlife management programs in place and their expertise, authorities, knowledge, and organizations can greatly enhance recovery of the species. Animal Damage Control is a professional federal wildlife management agency that has the responsibility, like all federal agencies, to use their authorities to enhance the recovery of listed species. Animal Damage Control has been a valuable and necessary component of wolf recovery activities in Montana and Minnesota.

Issue 21: There should be a mortality limit that triggers more restrictive management or reintroduced wolves that are killed should be quickly replaced.

Service Response: The measure of success in the wolf recovery program is not the level of wolf population mortality but growth of the wolf population. Wolf populations can withstand varying levels of mortality and individual wolf mortality is very difficult to measure accurately. Language was added to the final rule that clarifies the need to modify the state and tribal plans, which must be in compliance with the rule, if wolf population growth is not evident. Wolf population growth is easier to accurately monitor and is the criteria that is used to implement other provisions in the rule (e.g. when lethal control may be used, when a population is established, when reintroductions stop, and when wolf populations are recovered). A "put and take" strategy does not address the problem of a wolf population failing to maintain growth and is an expensive process to conduct. It is more productive to identify the factors preventing wolf population growth and correct them before simply continually adding more wolves that may die from the same causes. A population that required constant reintroductions to compensate for excessive mortality rates could not be delisted.

Issue 22: The experimental population boundaries are not scientifically based and should be modified.

Service Response: The Service determined the boundaries of the experimental populations based upon the distribution of the wolf population in Montana. The experimental population boundaries do not include any portion of any known area used by breeding wolves in Montana. It was also determined that any wolf population inside the experimental boundaries would most likely be the result of reintroduced wolves and any breeding groups of wolves outside the experimental boundaries would likely be the result of natural dispersal of wolves from northwestern Montana or Canadian populations. The definition of a wolf population underwent scientific peer review (Service 1994a, Appendix 8). The rationale and location of the experimental population boundaries were also reviewed, and no better consensus of a way to define the geographic range of a wolf population was brought to the Service's attention.

Issue 23: Wolves should be reintroduced for more than 3 years.

Service Response: Once a wolf population is established in an experimental area there is no need to conduct further reintroductions and to do so would not be cost effective. The soonest the "wolf population" criteria could be met is in three years. At that time about 45 wolves would have been reintroduced to each area, assuring substantial genetic diversity, and 10–20 pups should be born annually.

Issue 24: What does legally present livestock mean? Who is responsible for determining livestock husbandry practices?

Service Response: The provisions on legally present livestock are part of the rule so that control of problem wolves will occur only when livestock are present on public land in a manner already allowed by conditions in their federal, state, or tribal grazing permit. No new conditions are expected because of wolf reintroduction. Control of wolves that attack livestock should not be expected when livestock are illegally present on federal lands. Proper livestock husbandry practices means the current community standards and practices used by livestock producers as

already determined by the land management agency issuing the permit. No changes from the standard livestock grazing practices already being used on federal grazing leases are envisioned. Wolf management in Montana has not affected livestock management practices on public lands and would likely not affect those practices in other areas. Issues like proper disposal of livestock carrion are already being addressed in the Yellowstone area because of other concerns such as grizzly bear recovery. Language in the final rule reflects that carrion must be managed in such a way as not to present a continuing attractant to wolves if problems occur, but leaves the livestock producer and land management agency to determine how best to address potential problems.

Issue 25: Nearly every one of the 39 issues addressed in the public scoping process and review of the draft EIS were again discussed, questioned, or disagreed with during public comment about the proposed rule.

Service Response: The Service has reviewed public concern about the accuracy of its early responses to issues raised in the draft and final EIS and which were also raised by persons commenting on the proposed rule. At this time, the information provided during the public comment period on the proposed rule does not provide sufficient data or cause for the Service to significantly change any of its earlier findings which were published in the final EIS regarding the issues of: Amending the Endangered Species Act, wolves as a missing component of the ecosystem, humane treatment of wolves, enjoying wolves, regulated public take, cost of the program, state, tribal, and federal authority, viable population, travel corridors, range requirements, control strategies, illegal killing, compensation, delisting, need for public education, spiritual and cultural significance, social and cultural environment, recovery areas, ungulate populations, hunter harvest, domestic livestock, land use, visitor use, economics, wolves not native to Yellowstone, wolf rights, federal subsides, human health and safety, predators and scavengers, other endangered species, other plants, invertebrates, fish, reptiles, amphibians, birds, and mammals, diseases and parasites, private property rights, wolf recovery in other areas, existing wolves in Idaho and Yellowstone, existing wolves in northwestern Montana, wolf subspecies, wolf/dog/coyote hybridization, and the need for research (Service 1994a).

The Service adjusted the experimental population boundaries to exclude any portion of known wolf pack territories in an effort to reduce the likelihood that any naturally dispersing breeding groups of wolves would fall under the proposed experimental rule regulations.

Based on the above, and using the best scientific and commercial data available, in accordance with 50 CFR 17.81, the Service finds that releasing wolves into Yellowstone National Park constitutes reintroduction into a high-priority site and will further advance conservation and recovery of this species.

National Environmental Policy Act

A Final Environmental Impact Statement under the National Environmental Policy Act is available to the public (see **ADDRESSES**). This rule is an implementation of the proposed action and does not require revision of the EIS statement on the reintroduction of gray wolves to Yellowstone National Park and central Idaho.

Required Determinations

This rule was reviewed under Executive Order 12866. The rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Based on the information discussed in this rule concerning public projects and private activities within the experimental population area, significant economic impacts will not result from this action. Also, no direct costs, enforcement costs, information collection, or recordkeeping requirements are imposed on small entities by this action and the rule contains no recordkeeping requirements, as defined in the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This rule does not require federalism assessment under Executive Order 12612 because it would not have any significant federalism effects as described in the order.

Due to biological requirements, the wolf reintroduction program needs to be conducted in November through February, as recommended by wolf scientists during the EIS process. The nonessential experimental population rule has been extensively debated and thoroughly investigated during development of the EIS and draft rules. Because of the extensive public review of the EIS, Record of Decision, and proposed rules, all being similar to this final rule, implementation of the wolf reintroduction program should start as of the date of publication, without a 30-day waiting period. Therefore, for good cause and in accordance with 5 U.S.C. 553(d)(3), the Service has determined that the rule should become effective immediately upon filing for public inspection.

References Cited

Brewster, W.G. and S.H. Fritts. 1994. Taxonomy and genetics of the gray wolf in western North America: a review. Pages xxx–xxx *in* Carbyn, L.N., S.H. Fritts, and D.R. Seip, eds. Ecology and conservation of wolves in a changing world. Canadian Circumpolar Inst., Univ. of Alberta. (in press).

Fritts, S.H. 1982. Wolf depredation on livestock in Minnesota. U.S. Fish and Wildlife Service Resource Publication 145. 11 pp.

Nowak, M.R. 1994. Another look at wolf taxonomy. Pages xxx–xxx *in* Carbyn, L.N., S.H. Fritts, and D.R. Seip, eds. Ecology and conservation of wolves in a changing world. Canadian Circumpolar Inst., Univ. of Alberta. (in press).

Roy, L.D., and M.J. Dorrance. 1976. Methods of investigating predation of domestic livestock. Alberta Agriculture, Edmonton, Alberta. 53 pp.

U.S. Fish and Wildlife Service. 1987. Northern Rocky Mountain Wolf Recovery Plan. U.S. Fish and Wildlife Service, Denver, Colorado. 119 pp.

U.S. Fish and Wildlife Service. 1994a. Reintroduction of gray wolves to Yellowstone National Park and central Idaho. Final Environmental Impact Statement, Helena, Montana. 608 pp.

U.S. Fish and Wildlife Service. 1994b. Endangered and Threatened Wildlife and Plants; Proposing Establishment of a nonessential experimental population of gray wolf in Yellowstone National Park in Wyoming, Idaho, and Montana, and in Central Idaho area. **Federal Register** Vol. 59, No. 157: 42108–42127.

U.S. Fish and Wildlife Service. 1994c. Summary of Public Comments on the Proposed Rules for The Reintroduction of Gray Wolves to Yellowstone National Park and central Idaho. 41 pp.

Wayne, W.K., N. Lehman, and T.K. Fuller. 1994. Conservation genetics of the gray wolf. Pages xxx–xxx *in* Carbyn, L.N., S.H. Fritts, and D.R. Seip, eds. Ecology and conservation of wolves in a changing world. Canadian Circumpolar Inst., Univ. of Alberta. (in press).

Author

The principal author of this rule is Edward E. Bangs (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h), the table entry for "Wolf, gray" under "MAMMALS" is revised to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*	*	*
Wolf, gray	*Canis lupus*	Holarctic	U.S.A. (48 conterminous States, except MN and where listed as an experimental population).	E	1, 6, 13, 15, 35, 561	17.95(a)	NA
Do	do	do	U.S.A. (MN)	T	35	17.95(a)	17.40(d)
Do	do	do	U.S.A. (WY and portions of ID and MT—see § 17.84(i)).	XN	561	NA	17.84(i)
*	*	*	*	*	*	*	*

3. Section 17.84 is amended by adding paragraph (i) to read as follows:

§ 17.84 Special rules—Vertebrates.

* * * * *

(i) Gray wolf (*Canis lupus*).

(1) The gray wolves identified in paragraph (i)(7) of this section are nonessential experimental. These wolves will be managed in accordance with the respective provisions of this section.

(2) The Service finds that reintroduction of nonessential experimental gray wolves, as defined in (i)(7), will further the conservation of the species.

(3) No person may take this species in the wild in an experimental population area except as provided in paragraphs (i)(3), (7), and (8) of this section.

(i) Landowners on their private land and livestock producers (i.e., producers of cattle, sheep, horses, and mules or as defined in State and tribal wolf management plans as approved by the Service) that are legally using public land (Federal land and any other public lands designated in State and tribal wolf management plans as approved by the Service) may harass any wolf in an opportunistic (the wolf cannot be purposely attracted, tracked, waited for, or searched out, then harassed) and noninjurious (no temporary or permanent physical damage may result) manner at any time, *Provided* that such harassment is non-lethal or is not physically injurious to the gray wolf and is reported within 7 days to the Service project leader for wolf reintroduction or agency representative designated by the Service.

(ii) Any livestock producers on their private land may take (including to kill or injure) a wolf in the act of killing, wounding, or biting livestock (cattle, sheep, horses, and mules or as defined in State and tribal wolf management plans as approved by the Service), *Provided* that such incidents are to be immediately reported within 24 hours to the Service project leader for wolf reintroduction or agency representative designated by the Service, and livestock freshly (less than 24 hours) wounded (torn flesh and bleeding) or killed by wolves must be evident. Service or other Service authorized agencies will confirm if livestock were wounded or killed by wolves. The taking of any wolf without such evidence may be referred to the appropriate authorities for prosecution.

(iii) Any livestock producer or permittee with livestock grazing allotments on public land may receive a written permit, valid for up to 45 days, from the Service or other agencies designated by the Service, to take (including to kill or injure) a wolf that is in the act of killing, wounding, or biting livestock (cattle, sheep, horses, and mules or as defined in State and tribal wolf management plans as approved by the Service), *Provided* that six or more breeding pairs of wolves have been documented in the experimental population area and the Service or other agencies authorized by the Service has confirmed that the livestock losses were caused by wolves and have completed agency efforts to resolve the problem. Such take must be reported immediately within 24 hours to the Service project leader for wolf reintroduction or agency representative designated by the Service. There must be evidence of freshly wounded or killed livestock by wolves. Service or other agencies, authorized by the Service, will investigate and determine if the livestock were wounded or killed by wolves. The taking of any wolf without such evidence may be referred to the appropriate authorities for prosecution.

(iv) Potentially affected States and tribes may capture and translocate wolves to other areas within an experimental population area as described in paragraph (i)(7), *Provided* the level of wolf predation is negatively impacting localized ungulate populations at an unacceptable level. Such translocations cannot inhibit wolf population recovery. The States and tribes will define such unacceptable impacts, how they would be measured, and identify other possible mitigation in their State or tribal wolf management plans. These plans must be approved by the Service before such movement of wolves may be conducted.

(v) The Service, or agencies authorized by the Service, may promptly remove (place in captivity or kill) any wolf the Service or agency authorized by the Service determines to present a threat to human life or safety.

(vi) Any person may harass or take (kill or injure) a wolf in self defense or in defense of others, *Provided* that such

take is reported immediately (within 24 hours) to the Service reintroduction project leader or Service designated agent. The taking of a wolf without an immediate and direct threat to human life may be referred to the appropriate authorities for prosecution.

(vii) The Service or agencies designated by the Service may take wolves that are determined to be "problem" wolves. Problem wolves are defined as: wolves that in a calendar year attack livestock (cattle, sheep, horses, and mules) or as defined by State and tribal wolf management plans approved by the Service, or wolves that twice in a calendar year attack domestic animals (all domestic animals other than livestock). Authorized take includes, but is not limited to non-lethal measures such as: aversive conditioning, nonlethal control, and/or translocating wolves. Such taking may be implemented when five or fewer breeding pairs are established in a experimental population area. If the take results in a wolf mortality, then evidence that the mortality was nondeliberate, nonnegligent, accidental, and unavoidable must be provided. When six or more breeding pairs are established in the experimental population area, lethal control of problem wolves or permanent placement in captivity will be authorized but only after other methods to resolve livestock depredations have been exhausted. Depredations occurring on Federal lands or other public lands identified in State or tribal wolf management plans and prior to six breeding pairs becoming established in an experimental population area, may result in capture and release of the female wolf with pups, and her pups at or near the site of capture prior to October 1. All wolves on private land, including female wolves with pups, may be relocated or moved to other areas within the experimental population area if continued depredation occurs. Wolves attacking domestic animals other than livestock, including pets on private land, two or more times in a calendar year will be relocated. All chronic problem wolves (wolves that depredate on domestic animals after being moved once for previous domestic animal depredations) will be removed from the wild (killed or placed in captivity). The following three criteria will be used in determining the status of problem wolves within the nonessential experimental population area:

(A) There must be evidence of wounded livestock or partial remains of a livestock carcass that clearly shows that the injury or death was caused by wolves. Such evidence is essential since wolves may feed on carrion which they found and did not kill. There must be reason to believe that additional livestock losses would occur if no control action is taken.

(B) There must be no evidence of artificial or intentional feeding of wolves. Improperly disposed of livestock carcasses in the area of depredation will be considered attractants. Livestock carrion or carcasses on public land, not being used as bait under an agency authorized control action, must be removed or otherwise disposed of so that it will not attract wolves.

(C) On public lands, animal husbandry practices previously identified in existing approved allotment plans and annual operating plans for allotments must have been followed.

(viii) Any person may take a gray wolf found in an area defined in paragraph (i)(7), *Provided* that the take is incidental to an otherwise lawful activity, accidental, unavoidable, unintentional, not resulting from negligent conduct lacking reasonable due care, and due care was exercised to avoid taking a gray wolf. Such taking is to be reported within 24 hours to a Service or Service-designated authority. Take that does not conform with such provisions may be referred to the appropriate authorities for prosecution.

(ix) Service or other Federal, State, or tribal personnel may receive written authorization from the Service to take animals under special circumstances. Wolves may be live captured and translocated to resolve demonstrated conflicts with ungulate populations or with other species listed under the Act, or when they are found outside of the designated experimental population area. Take procedures in such instances would involve live capture and release to a remote area, or placement in a captive facility, if the animal is clearly unfit to remain in the wild. Killing of wolves will be a last resort and is only authorized when live capture attempts have failed or there is clear endangerment to human life.

(x) Any person with a valid permit issued by the Service under § 17.32 may take wolves in the wild in the experimental population area, pursuant to terms of the permit.

(xi) Any employee or agent of the Service or appropriate Federal, State, or tribal agency, who is designated in writing for such purposes by the Service when acting in the course of official duties, may take a wolf from the wild within the experimental population area, if such action is for:

(A) Scientific purposes;

(B) To relocate wolves to avoid conflict with human activities;

(C) To relocate wolves within the experimental population areas to improve wolf survival and recovery prospects;

(D) To relocate wolves that have moved outside the experimental population area back into the experimental population area;

(E) To aid or euthanize sick, injured, or orphaned wolves;

(F) To salvage a dead specimen which may be used for scientific study; or

(G) To aid in law enforcement investigations involving wolves.

(xii) Any taking pursuant to this section must be reported immediately (within 24 hours) to the appropriate Service or Service-designated agency, which will determine the disposition of any live or dead specimens.

(4) Human access to areas with facilities where wolves are confined may be restricted at the discretion of Federal, State, and tribal land management agencies. When five or fewer breeding pairs are in an experimental population area, land-use restrictions may also be employed on an as-needed basis, at the discretion of Federal land management and natural resources agencies to control intrusive human disturbance around active wolf den sites. Such temporary restrictions on human access, when five or fewer breeding pairs are established in an experimental population area, may be required between April 1 and June 30, within 1 mile of active wolf den or rendezvous sites and would only apply to public lands or other such lands designated in State and tribal wolf management plans. When six or more breeding pairs are established in an experimental population area, no land-use restrictions may be employed outside of national parks or national wildlife refuges, unless wolf populations fail to maintain positive growth rates toward population recovery levels for 2 consecutive years. If such a situation arose, State and tribal agencies would identify, recommend, and implement corrective management actions within 1 year, possibly including appropriate land-use restrictions to promote growth of the wolf population.

(5) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any wolf or part thereof from the experimental populations taken in violation of the regulations in paragraph (i) of this section or in violation of applicable State or tribal fish and

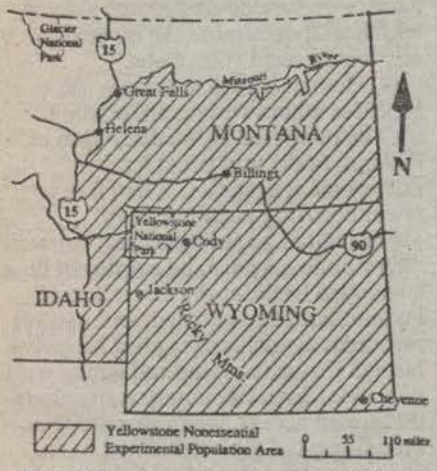
wildlife laws or regulations or the Endangered Species Act.

(6) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed any offense defined in this section.

(7) The site for reintroduction is within the historic range of the species:

(i) [Reserved]

(ii) The Yellowstone Management Area is shown on the following map. The boundaries of the nonessential experimental population area will be that portion of Idaho that is east of Interstate Highway 15; that portion of Montana that is east of Interstate Highway 15 and south of the Missouri River from Great Falls, Montana, to the eastern Montana border; and all of Wyoming.



(iii) All wolves found in the wild within the boundaries of this paragraph (i)(7) after the first releases will be considered nonessential experimental animals. In the conterminous United States, a wolf that is outside an experimental area (as defined in paragraph (i)(7) of this section) would be considered as endangered (or threatened if in Minnesota) unless it is marked or otherwise known to be an experimental animal; such a wolf may be captured for examination and genetic testing by the Service or Service-designated agency. Disposition of the captured animal may take any of the following courses:

(A) If the animal was not involved in conflicts with humans and is determined likely to be an experimental wolf, it will be returned to the reintroduction area.

(B) If the animal is determined likely to be an experimental wolf and was involved in conflicts with humans as identified in the management plan for the closest experimental area, it may be relocated, placed in captivity, or killed.

(C) If the animal is determined not likely to be an experimental animal, it will be managed according to any Service-approved plans for that area or will be marked and released near its point of capture.

(D) If the animal is determined not likely to be a wild gray wolf or if the Service or agencies designated by the Service determine the animal shows physical or behavioral evidence of hybridization with other canids, such as domestic dogs or coyotes, or of being an animal raised in captivity, it will be kept in captivity or killed.

(8) The reintroduced wolves will be monitored during the life of the project, including by the use of radio telemetry and other remote sensing devices as appropriate. All released animals will be vaccinated against diseases and parasites prevalent in canids, as appropriate, prior to release and during subsequent handling. Any animal that is sick, injured, or otherwise in need of special care may be captured by authorized personnel of the Service or Service-designated agencies and given appropriate care. Such an animal will be released back into its respective reintroduction area as soon as possible, unless physical or behavioral problems make it necessary to return the animal to captivity or euthanize it.

(9) The status of the experimental population will be reevaluated within the first 3 years, after the first year of releases of wolves, to determine future management needs and if further reintroductions are required. This review will take into account the reproductive success and movement patterns of the individuals released in the area, as well as the overall health and fate of the experimental wolves. Once recovery goals are met for downlisting or delisting the species, a rule will be proposed to address downlisting or delisting.

(10) The Service does not intend to reevaluate the "nonessential experimental" designation. The Service does not foresee any likely situation which would result in changing the nonessential experimental status until the gray wolf is recovered and delisted in the northern Rocky Mountains according to provisions outlined in the Act. However, if the wolf population does not demonstrate positive growth toward recovery goals for 2 consecutive years, the affected States and tribes, in cooperation with the Service, would, within 1 year, identify and initiate wolf management strategies, including appropriate public review and comment, to ensure continued wolf population growth toward recovery levels. All reintroduced wolves designated as nonessential experimental will be removed from the wild and the experimental status and regulations revoked when (i) legal actions or lawsuits change the wolves status to endangered under the Act or (ii) within 90 days of the initial release date, naturally occurring wolves, consisting of two breeding pairs that for 2 consecutive years have each successfully raised two offspring, are discovered in the experimental population area. The naturally occurring wolves would be managed and protected as endangered species under the Act.

Dated: November 15, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 94–28746 Filed 11–18–94; 8:45 am]

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50 CFR Part 17

RIN 1018–AC86

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Gray Wolves in Central Idaho and Southwestern Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) will reintroduce the gray wolf (*Canis lupus*), an endangered species, into central Idaho, including a portion of southwestern Montana. These wolves will be classified as a nonessential experimental population pursuant to section 10(j) of the Endangered Species Act of 1973, as amended (Act). Gray wolf populations have been extirpated from most of the Western United States. They presently occur in a small population in extreme northwestern Montana, and as incidental occurrences in Idaho, Wyoming, and Washington as a result of wolves dispersing from existing populations in Montana and Canada. The purpose of this reintroduction plan is to reestablish a viable wolf population in central Idaho, one of three wolf recovery areas identified in the Northern Rocky Mountain Wolf Recovery Plan. Potential effects of this final rule were evaluated in an Environmental Impact Statement (EIS) completed in May 1994. This gray wolf reintroduction does not conflict with existing or anticipated Federal agency actions or traditional public uses of park lands, wilderness areas, or surrounding lands.

EFFECTIVE DATE: November 18, 1994.